UNITED STATES COURT OF APPEALS
FOR DISTRICT OF COLUMBIA CIRCUIT

MAY 25 2017

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UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

NATIONAL ASSOCIATION OF HOME BUILDERS, NEW HAMPSHIRE HOME BUILDERS ASSOCIATION)

PETITIONERS)

v.)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,)

RESPONDENT.)

DOCKET NO.: 17-1138

PETITION FOR REVIEW

Pursuant to Rule 15 of the Federal Rules of Appellate Procedure and 33 U.S.C. §1369(b)(1)(E) and (F), the National Association of Home Builders and the New Hampshire Home Builders Association, on behalf of themselves and their members, petition this Court for review of Respondent, United States Environmental Protection Agency's ("EPA's") General Permit for stormwater discharges from small Municipal Separate Storm Sewer systems ("MS4s") to certain waters of the State of New Hampshire, issued on January 18, 2017 ("MS4 Permit"). The permit this Petition challenges is available electronically at https://www3.epa.gov/region1/npdes/stormwater/MS4_NH.html and is further appended as **Exhibit A** (without MS4 Permit Appendices A–H, which total approximately 193 pages).[1]

[1] EPA's website includes a "Pre-Publication *Federal Register* Notice," appended here as **Exhibit B**, but that Notice has not yet been published in the *Federal Register*.

May 25, 2017

Respectfully Submitted,

NATIONAL ASSOCIATION OF HOMEBUILDERS

NEW HAMPSHIRE HOME BUILDERS ASSOCIATION

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RULE 26.1 DISCLOSURE STATEMENT

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure, the undersigned, counsel for Petitioners, the National Association of Home Builders ("NAHB") and the New Hampshire Home Builders Association ("NHHBA"), certifies that NAHB is a nonprofit trade association organized under the laws of Nevada. NAHB 's purpose is to promote the general commercial, professional, and legislative interests of its approximately 140,000 builder and associate members throughout the United States, including individuals and firms that construct and supply single-family homes, as well as apartment, condominium, multi-family, commercial and industrial builders, land developers, and remodelers. NHHBA and its members are members of NAHB. As part of the construction and development industry, NAHB's members, including NHHBA's members, will be subject to requirements contained in the United States Environmental Protection Agency's Final National Pollutant Discharge Elimination System ("NPDES") General Permit for stormwater discharges from small Municipal Separate Storm Sewer Systems ("MS4s") to waters of the State of New Hampshire, issued on January 18, 2017 ("MS4 Permit") (noticed at https://www3.epa.gov/region1/npdes/stormwater/MS4_NH.html).

NAHB does not have any parent companies that have 10 percent or greater ownership interest in NAHB. Further, there is no publicly-held company that has a 10 percent or greater ownership interest in NAHB. NAHB is comprised of more than 700 state and local home builders associations with whom it is affiliated, but all of those associations are, to the best of NAHB's knowledge, nonprofit corporations that have not issued stock to the public.

NHHBA is a trade association founded in 1952 and representing builder and associate member firms organized as a federation of a state and eight (8) local associations spread geographically throughout New Hampshire. NHHBA's members include those who design, construct and supply single-family homes; build and manage multifamily, light commercial and industrial structures; develop land; and remodel existing homes. NHHBA has members in New Hampshire that release stormwater into affected MS4 systems and are themselves impacted by EPA's MS4 permit.

NHHBA does not have any parent companies that have 10 percent or greater ownership interest in NHHBA. Further, there is no publicly-held company that has a 10 percent or greater ownership interest in NHHBA. NHHBA is affiliated with eight (8) local home builders associations, but all of those associations are, to the best of NHHBA's knowledge, nonprofit corporations that have not issued stock to the public.

May 25, 2017

Respectfully Submitted,

NATIONAL ASSOCIATION OF HOMEBUILDERS, NEW HAMPSHIRE HOME BUILDERS ASSOCIATION

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CERTIFICATE OF SERVICE

As required by Rule 15(c) of the Federal Rules of Appellate Procedure and 40 C.F.R. § 23.12, I certify that a copy of the foregoing Petition for Review and Rule 26.1 Disclosure Statements were served by Certified Mail on May 25, 2017, on the following parties:

The Honorable Scott Pruitt
Administrator
U.S. EPA Headquarters
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Kevin S. Minoli
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The Honorable Jeff Sessions
Attorney General of the United States
U.S. Department of Justice
Room 4400
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

May 25, 2017

Jeffrey S. Longsworth

EXHIBIT

A

United States Environmental Protection Agency (EPA)
National Pollutant Discharge Elimination System (NPDES)

GENERAL PERMITS FOR STORMWATER DISCHARGES FROM SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS

AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Clean Water Act (CWA), as amended (33 U.S.C. §1251 *et seq.*), any operator of a small municipal separate storm sewer system whose system

- Is located in the areas described in Part 1.1;
- Is eligible for coverage under Part 1.2 and Part 1.9; and
- Submits a complete and accurate Notice of Intent in accordance with Part 1.7 of this permit and receives written authorization from EPA

is authorized to discharge in accordance with the conditions and the requirements set forth herein.

The following appendices are also included as part of these permits:
Appendix A – Definitions, Abbreviations, and Acronyms;
Appendix B – Standard permit conditions applicable to all authorized discharges;
Appendix C – Endangered Species Act Eligibility Guidance;
Appendix D – National Historic Preservation Act Eligibility Guidance;
Appendix E – Information required for the Notice of Intent (NOI);
Appendix F – Requirements for NH Small MS4s Subject to Approved TMDLs;
Appendix G – Impaired Waters Monitoring Parameter Requirements; and
Appendix H – Requirements related to discharges to certain impaired waterbodies

These permits become effective on **July 1, 2018.**

These permits and the authorization to discharge expire at midnight on June 30, 2023.

Signed this 18th day of January, 2017

Ken Moraff, Director
Office of Ecosystem Protection
United States Environmental Protection Agency
5 Post Office Square – Suite 100
Boston, Massachusetts 02109-3912

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1.0 Introduction

This document consists of three (3) general permits listed in Part 1.1. Each general permit is applicable to a particular type of municipal system within New Hampshire. Many of the permit terms and conditions are applicable across all regulated entities, and therefore are presented just once in Parts 1-2, Part 4, and Appendices A through E. Other conditions are applicable to a particular set of authorized entities; these terms and conditions are included in Parts 3, 5 and 6 and Appendices F through H. Throughout the permit, the terms "this permit" or "the permit" will refer to all three general permits.

1.1 Areas of Coverage

This permit covers small municipal separate storm sewer systems (MS4s) located in the State of New Hampshire:

- Traditional Cities and Towns (NPDES Permit No. NHR041000)
- State, federal, county and other publicly owned properties (Non-traditional) (NHR042000)
- State transportation agency (NHR043000)

1.2 Eligibility

The MS4 shall meet the eligibility provisions described in Part 1.2.1 and Part 1.9 to be eligible for authorization under this permit.

1.2.1 Small MS4s Covered

This permit authorizes the discharge of stormwater from small MS4s as defined at 40 CFR § 122.26(b)(16) and Appendix A. This includes MS4s described in 40 CFR §122.32(a)(1) or (a)(2). An MS4 is eligible for authorization under this permit if it is:

a. An MS4 (see definition in Appendix A) within the permit areas described in Part 1.1;
b. Not a large or medium MS4 as defined in 40 CFR §§122.26(b)(4) or (7); and
c. Either:
    1. Located fully or partially within an urbanized area as determined by the 2010 Decennial Census by the Bureau of Census; or
    2. Located in a geographic area designated by EPA as requiring a permit.

If the small MS4 is not located entirely within an urbanized area, only the portion of the MS4 that is located within the urbanized area is regulated consistent with 40 CFR §122.32(a)(1).

1.3 Limitations on Coverage

This permit does not authorize the following:

a. Stormwater discharges mixed with sources of non-stormwater, unless the non-stormwater discharges are either (1) authorized under a separate NPDES permit, or (2) allowed under Part 1.4.

b. Stormwater discharges associated with industrial activity as defined in 40 CFR §122.26 (b) (14) (i)-(ix) and (xi).

c. Stormwater discharges associated with construction activity as defined in 40 CFR §122.26(b) (14) (x) or (b) (15).

d. Stormwater discharges currently covered under another NPDES permit, including discharges covered under other regionally issued general permits.

e. Stormwater discharges or discharge related activities that are likely to adversely affect any species that are listed as endangered or threatened under the Endangered Species Act (ESA) or result in the adverse modification or destruction of habitat that is designated as critical under the ESA. The permittee shall follow the procedures detailed in Appendix C to make a determination regarding eligibility. The permittee shall certify compliance with this provision on the submitted NOI.

f. Stormwater discharges whose direct or indirect impacts do not prevent or minimize adverse effects on any Essential Fish Habitat.

g. Stormwater discharges, allowable non-stormwater discharges, or stormwater discharge-related activities that have an effect on a property that is listed or eligible for listing on the National Register of Historic Properties (NRHPS). The permittee shall follow the procedures detailed in Appendix D to make a determination regarding eligibility. The permittee shall certify compliance with this provision on the submitted NOI.

h. Stormwater discharges to territorial seas, the waters of the contiguous zone, or the oceans.

i. Stormwater discharges prohibited under 40 CFR § 122.4.

j. Stormwater discharges to the subsurface subject to state Underground Injection Control (UIC) regulations at N.H. Code Admin. R. Part Env-Wq 404. Although the permit includes provisions related to infiltration and groundwater recharge, structural controls that dispose of stormwater into the ground may be subject to UIC regulation requirements. Authorization for such discharges shall be obtained from the New Hampshire Department of Environmental Services, Groundwater Discharge Permitting and Registration Program.

1.4 Allowable Non-Stormwater Discharges

The following categories of non-stormwater discharges are allowed under this permit unless the permittee, EPA, or the state agency identifies any category of non-stormwater discharge in Part 1.4.a-r as a significant contributor of pollutants to the MS4, then that category is not allowed under Part 1.4, but rather shall be deemed an "illicit discharge" under Part 2.3.4.1. and the permittee shall address that category as part of the Illicit Discharge Detection and Elimination (IDDE) Program described in Part 2.3.4 of this permit.

a. Water line flushing
b. Landscape irrigation

c. Diverted stream flows
d. Rising ground water
e. Uncontaminated ground water infiltration (as defined at 40 CFR § 35.2005(20))
f. Uncontaminated pumped ground water
g. Discharge from potable water sources
h. Foundation drains
i. Air conditioning condensation
j. Irrigation water, springs
k. Water from crawl space pumps
l. Footing drains
m. Lawn watering
n. Individual resident car washing
o. Flows from riparian habitats and wetlands
p. De-chlorinated swimming pool discharges
q. Street wash waters
r. Residential building wash waters without detergents

Discharges or flows from fire fighting activities are allowed under this permit need only be addressed where they are identified as significant sources of pollutants to waters of the United States.

1.5 Permit Compliance

Any non-compliance with any requirement of this permit constitutes a violation of the permit and the CWA and may be grounds for an enforcement action and may result in the imposition of injunctive relief and/or penalties.

1.6 Continuation of this Permit

If this permit is not reissued prior to the expiration date, it will be administratively continued in accordance with the Administrative Procedure Act and remain in force and effect for discharges that were authorized prior to expiration. If a small MS4 was granted permit authorization prior to the expiration date of this permit, it will automatically remain authorized by this permit until the earliest of:

- Authorization under a reissued general permit following timely and appropriate submittal of a complete and accurate NOI requesting authorization to discharge under the reissued permit; or
- Issuance or denial of an individual permit for the MS4's discharges; or
- Authorization or denial under an alternative general permit.

If the MS4 operator does not submit a timely, appropriate, complete and accurate NOI requesting authorization to discharge under the reissued permit, or a timely request for authorization under an individual or alternative general permit, authorization under this permit will terminate on the due date for the NOI under the reissued permit unless otherwise specified in the reissued permit.

1.7 Obtaining Authorization to Discharge

1.7.1 How to Obtain Authorization to Discharge

To obtain authorization under this permit, a small MS4 shall:

1. Be located in the areas listed in Part 1.1 of this permit;
2. Meet the eligibility requirements in Part 1.2 and Part 1.9;
3. Submit a complete and accurate Notice of Intent (NOI) in accordance with the requirements of Part 1.7.2; and
4. Receive written authorization from EPA.

1.7.2 Notice of Intent

a. Operators of Small MS4s seeking authorization to discharge under the terms and conditions of this permit shall submit a Notice of Intent that contains the information identified in Appendix E[1].

b. Operators of Small MS4s that have developed Alternative Pollutant Reduction Plan(s) to meet TMDL Waste Load Allocations in accordance with Appendix F Part I.2, II.2, and/or III.2 shall attach their proposed NHDES-approved Alternative Pollutant Reduction Plan(s) to their NOI.

c. The NOI shall be signed by an appropriate official (see Appendix B Subparagraph 11).

d. The NOI shall contain the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Print the name and title of the official, followed by signature and date.

e. The NOI shall be submitted within 90 days of the effective date of the permit. If EPA notifies an MS4 that it is designated under 40 CFR §122.32(a) (2) or (b), the NOI shall be submitted within 180 days of receipt of notice unless granted a longer period of time by EPA.

1.7.3 Submission of Notice of Intent

a. All small MS4s shall submit a complete and accurate Notice of Intent to EPA-Region 1 at the following address:

---

[1] This includes operators of small MS4s that were previously authorized under the May 1, 2003 small MS4 general permit (MS4-2003)

United States Environmental Protection Agency
ATTN: Stormwater and Construction Permits Section
5 Post Office Square – Suite 100
Mail Code – OEP06-1
Boston, Massachusetts 02109-3912

b. New Hampshire Department of Environmental Services (NHDES) may request that a permittee submit their NOI to NHDES, upon receipt of such request the small MS4s must also submit a copy of the NOI at the following address:

New Hampshire Department of Environmental Services
Water Division – Wastewater Engineering Bureau
P.O. Box 95
Concord, New Hampshire 03302-0095
ATTN: Stormwater Permits Coordinator

c. Late notification: A small MS4 is not prohibited from submitting an NOI after the dates provided in Part 1.7.2.e. However, if a late NOI is submitted, authorization is only for discharges that occur after permit authorization is granted. EPA reserves the right to take enforcement actions for any unpermitted discharges.

1.7.4 Effective Date of Coverage

a. Based on a review of an NOI, EPA may grant authorization under this permit or deny authorization under this permit and require submission of an application for an individual or alternative NPDES permit (see Part 1.8). A small MS4 operator will be authorized to discharge under the terms and conditions of this permit upon written receipt of notice of authorization from EPA.

b. For operators of small MS4s that submitted Alternative Pollutant Reduction Plan(s) seeking operator-specific permit requirements (see Appendix F Part I.2, II.2, and/or III.2) EPA will provide a public notice and opportunity for comment on the Alternative Pollutant Reduction Plan(s) as well as operator-specific permit requirements. The public comment period will be a minimum of 30 calendar days and will be conducted in accordance with 40 CFR §§ 124.10 through 124.13 (excluding § 124.10(c)(2)). Based on a review of the Alternative Pollutant Reduction Plan(s), comments received, and other relevant information, EPA will issue a response to all significant comments received consistent with 40 CFR §124.17 and may grant or deny authorization to discharge under the proposed operator-specific permit requirements (see Appendix F Part I.2, II.2, and III.2) via written correspondence and will post the final operator-specific permit requirements on EPA's website.

c. Permittees whose authorization to discharge under the MS4-2003 which expired on May 1, 2008 has been administratively continued in accordance with the Administrative Procedures Act (5 U.S.C. 558(c)) and 40 CFR § 122.6, who wish to obtain coverage under this permit, must submit a new complete and accurate NOI requesting permit coverage in accordance with the requirements of Part 1.7 of this permit to EPA within 90 days after the effective date of this permit. For enforcement purposes, permittees whose authorization to discharge under the expired MS4-2003 was administratively continued, who fail to submit a timely, complete and accurate NOI requesting authorization to discharge under the reissued permit or an application for an individual NPDES permit within 90 days after the effective date of this permit, will be considered to be discharging without a permit.

1.8 Individual Permits and Alternative General Permits

a. EPA may require a small MS4 to apply for and obtain authorization under either an individual NPDES permit or an alternative NPDES general permit. Any interested person may petition EPA in accordance with the provisions of 40 CFR §122.26(f) to require a small MS4 to apply for and/or obtain authorization under either an individual NPDES permit or an alternative NPDES general permit. If EPA requires a small MS4 to apply for an individual or alternative NPDES permit, EPA will notify the small MS4 in writing that a permit application is required. This notification will include a brief statement of the reasons for this decision and will provide application information and an application deadline. If a small MS4 is authorized under the MS4-2003 or this permit and fails to submit an individual NPDES or an alternative general permit NPDES permit application as required by EPA, then the authorization under the MS4-2003 or this permit to the small MS4 is automatically terminated at the end of the date specified by EPA as the deadline for application submittal. EPA reserves the right to take enforcement action for any unpermitted discharge.

b. A small MS4 may request to be excluded from this general permit by applying for an individual permit or authorization under an alternative general permit. In such a case, a small MS4 shall submit an individual permit application in accordance with the requirements of 40 CFR §122.33(b) (2) (i) or §122.33(b) (2) (ii), with reasons supporting the request, to EPA at the address listed in Part 1.7.3 of this permit. The request may be granted by issuance of an individual permit or authorization under an alternative general permit if EPA determines that the reasons stated by the small MS4 are adequate to support the request. (See 40 CFR § 122.28(b) (3)).

c. When an individual NPDES permit is issued, or a small MS4 is authorized to discharge under an alternative NPDES general permit, authorization under this permit automatically terminates on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit.

1.9 Special Eligibility Determinations

1.9.1 Documentation Regarding Endangered Species

EPA will work with the U.S. National Marine Fisheries Service (NMFS) directly to fulfill ESA requirements of this permit related to species under their jurisdiction. The small MS4 shall certify eligibility regarding federally listed endangered or threatened species (or critical habitat) under the jurisdiction of the U.S. Fish and Wildlife Service in the NOI required by Part 1.7.2.

The Stormwater Management Program (SWMP) shall include documentation supporting the permittee's eligibility determination with regard to federal Endangered and Threatened Species and Critical Habitat Protection, including:

a. Information on whether federally listed endangered or threatened species, or critical habitat are found in proximity to the MS4's stormwater outfalls, or activities or structures involved in stormwater best management practices (BMPs);
b. Whether such species or habitat are likely to be adversely affected by the stormwater discharges or stormwater discharge-related activities, e.g., BMP installation;
c. Results of the Appendix C endangered species screening determinations; and
d. If any such species or habitat are present, a description of the measures the MS4 shall implement to protect federally listed endangered or threatened species, or critical habitat, including any conditions imposed by the U.S. Fish and Wildlife Service. If a permittee fails to document and implement such measures, those discharges are ineligible for coverage under this permit.

1.9.2 Documentation Regarding Historic Properties

The small MS4 shall certify eligibility regarding historic properties on the NOI required by Part 1.7.2. The SWMP shall include documentation supporting the MS4's eligibility determination with regard to Historic Properties Preservation, including:

a. Information on whether the permittee's stormwater discharges, allowable non-stormwater discharges, or stormwater discharge-related activities would have an effect on a property that is listed or eligible for listing on the National Register of Historic Properties (NRHP);
b. Where such effects may occur, any documents received by the permittee or any written agreements the permittee has made with the State Historic Preservation Officer (SHPO) representative to mitigate those effects;
c. Results of the Appendix D historic property screening investigations; and
d. If applicable, a description of the measures the permittee shall implement to avoid or minimize adverse impacts on places listed, or eligible for listing, on the NRHP, including any conditions imposed by the SHPO. If the permittee fails to document and implement such measures, those discharges are ineligible for coverage under this permit.

1.10 Stormwater Management Program (SWMP)

a. The permittee shall develop, implement, and enforce a written SWMP (hardcopy or electronic). The SWMP shall be signed in accordance with Appendix B, Subsection 11, including the date of signature. A signature and date is required for initial program preparation and for any significant revision to the program. The initial written SWMP shall be completed within one (1) year of the effective date of the permit and be updated as necessary to include necessary elements to ensure compliance with schedules and requirements contained in this permit.

   The SWMP is the document used by the permittee to describe the activities and measures that will be implemented to meet the terms and conditions of the permit. The initial SWMP shall accurately describe the permittee's plans and activities as described in the notice of intent and be updated as needed. The document shall be updated and/or modified during the permit term as the permittee's activities change and to comply with schedules and requirements contained in the permit.

b. Permittees authorized by the MS4-2003 shall modify or update their existing Best Management Practices (BMPs) and measurable goals to meet the terms and conditions of this permit within one (1) year of the effective date of the permit. These modifications and updates shall be reflected in the written SWMP. Permittees authorized by the MS4-2003 shall continue to implement their existing SWMP until the program has been updated.

c. Implementation of one or more of the permit requirements may be shared with another entity (including another interconnected MS4) or the other entity may fully implement the measure or requirement, if the following requirements are satisfied:
   - The other entity, in fact, implements the required task or program.
   - The particular task or program undertaken by the other entity is at least as stringent as the corresponding permit requirement.
   - The other entity agrees to implement the task or program on the permittee's behalf. The annual reports must specify that the permittee is relying on another entity to satisfy some of its permit obligations and specify what those obligations are. The permittee remains responsible for reporting compliance with all permit obligations.
   - See Part 2.3.1. for further requirements related to the permit's 6 minimum control measures.

1.10.1 Stormwater Management Program Availability

a. The permittee shall retain a copy of the current SWMP required by this permit at the office or facility of the person listed as the program contact on the submitted Notice of Intent (NOI). The SWMP shall be immediately available to representatives from EPA; a State agency; the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) at the time of an onsite inspection or upon request.

b. The permittee shall make the SWMP available to the public during normal business hours. The permittee may charge a reasonable fee for copy requests. The permittee is encouraged to satisfy this requirement by posting the SWMP online or making it available on written request.

1.10.2 Contents of the Stormwater Management Program for Permittees Covered Under the 2003 Permit

a. The following information must be included in the SWMP within one (1) year of the permit effective date and updated annually thereafter, as necessary:
   1. Identification of names and titles of people responsible for program implementation. If a position is currently unfilled, list the title of the position and modify the SWMP with the name once the position is filled;
   2. Listing of all receiving waterbody segments, their classification under the applicable state water quality standards, any impairment(s) and associated

pollutant(s) of concern, applicable TMDLs and WLAs, and number of outfalls from the MS4 that discharge to each waterbody. In addition to the receiving water, the permittee shall document in the SWMP all public drinking water sources (surface water and groundwater) that may be impacted by MS4 discharges;

3. Documentation of compliance with Part 1.9.1;
4. Documentation of compliance with Part 1.9.2;
5. The map of the separate storm sewer system required by Part 2.3.4.6;
6. Listing of all discharges identified pursuant to Part 2.1.1.d. and description of response;
7. Description of practices to achieve compliance with Part 2.3 (MEP requirements); For each permit condition in Part 2.3 identify:
    a. The person(s) or department responsible for the measure;
    b. The BMPs for the control measure or permit requirement;
    c. The measurable goal(s) for each BMP. Each measurable goal shall include milestones and timeframes for its implementation and have a quantity or quality associated with its endpoint. Each goal shall have a measure of assessment associated with it.
8. Description of measures to avoid or minimize impacts to public and known private drinking water sources (surface water and groundwater). The permittee is also encouraged to include provisions to notify public water supplies in the event of an emergency. For more information or assistance, contact: New Hampshire Department of Environmental Services, Drinking Water Source Protection Program. Description of activities to achieve compliance with Part 3.0;
9. Annual program evaluation (Part 4.1). Update annually and maintain copies.

b. The following information must be included in the SWMP within two (2) years of the permit effective date and updated annually thereafter, as necessary:
    1. Listing of all interconnected MS4s and other separate storm sewer systems receiving a discharge from the permitted MS4, the receiving waterbody segment(s) ultimately receiving the discharge, their classification under the applicable state water quality standards, any impairment(s) and associated pollutant(s) of concern, applicable TMDLs and WLAs, and the number of interconnections;
    2. Written procedures (hardcopy or electronic) to require submission of as-built drawings and ensure long term operation and maintenance in accordance with Part 2.3.6.b.
    3. The map of the separate storm sewer system required by Part 2.3.4.5.

c. The following information must be included in the SWMP within four (4) years of the permit effective date and updated annually thereafter, as necessary:
    1. Report(s) assessing current street design and parking lot guidelines and other local requirements within the municipality that affect the creation of impervious cover.

d. The following information must be included in the SWMP concurrent with the applicable deadlines in Appendix F and H and updated annually thereafter, as necessary:
   1. Description of practices to achieve compliance with Part 2.2.1 (TMDL requirements) including:
      a. The person(s) or department responsible for the measure;
      b. The BMPs for the control measure or permit requirement;
      c. The measurable goal(s) for each BMP. Each measurable goal shall include milestones and timeframes for its implementation and have a quantity or quality associated with its endpoint. Each goal must have an associated measure of assessment.
   2. Description of practices to achieve compliance with Part 2.2.2 (discharges to certain water quality limited waters subject to additional requirements) including:
      a. The person(s) or department responsible for the measure;
      b. The BMPs for the control measure or permit requirement;
      c. The measurable goal(s) for each BMP. Each measurable goal shall include milestones and timeframes for its implementation and have a quantity or quality associated with its endpoint. Each goal must have an associated measure of assessment;
   3. Description of any other practices to achieve compliance with Part 2.1 (water quality based requirements).

1.10.3 Contents and Timelines of the Stormwater Management Program for New Permittees

Permittees seeking authorization for the first time shall meet all deadlines contained in this permit except the following:

1. Timelines for public education requirements in Part 2.3.2.c shall be extended by one (1) year and need to include one (1) message to each audience over the permit term;
2. The ordinances, by-laws, or other regulatory mechanisms required by Parts 2.3.4, 2.3.5 and 2.3.6 shall be completed as soon as possible, but no later than three (3) years from the permit effective date; and
3. All other deadlines in Part 2.3.4.4 through 2.3.4.11 shall be extended by three (3) years.
4. All other deadlines in Part 2.3.5, 2.3.6 and 2.3.7 shall be extended by two (2) years.
5. All deadlines for discharges to water quality limited waters without a TMDL under Part 2.2.2 shall be extended by two (2) years.

Contents of the Stormwater Management Program for New Permittees

a. The following information must be included in the SWMP within one (1) year of the permit effective date and updated annually thereafter, as necessary:

   1. Identification of names and titles of people responsible for program

implementation. If a position is currently unfilled, list the title of the position and modify the SWMP with the name once the position is filled;
2. Documentation of compliance with Part 1.9.1;
3. Documentation of compliance with Part 1.9.2;
4. Documentation of authorization of all new or increased discharges granted by NHDES in compliance with Part 2.1.2;
5. Listing of all discharges identified pursuant to Part 2.1.1 and description of response;
6. Description of practices to achieve compliance with Part 2.3 (MEP requirements) identified in the permittee's NOI and any updates to those BMPs within the first year; For each permit condition in Part 2.3 identify:
   a. The person(s) or department responsible for the measure;
   b. The BMPs for the control measure or permit requirement;
   c. The measurable goal(s) for each BMP. Each measurable goal shall include milestones and timeframes for its implementation and have a quantity or quality associated with its endpoint. Each goal shall have a measure of assessment associated with it;
7. Description of measures to avoid or minimize impacts to public surface waterbody drinking water supplies. The permittee is also encouraged to include provisions to notify public water supplies in the event of an emergency. New Hampshire Department of Environmental Services, Drinking Water Source Protection Program. Description of activities to achieve compliance with Part 3.0;
8. Annual program evaluation (Part 4.1). Update annually and maintain copies.

b. The following information must be included in the SWMP within three (3) years of the permit effective date and updated annually thereafter, as necessary:

   1. Written procedures for site inspections and enforcement of sediment and erosion control procedures in accordance with Part 2.3.5;
   2. Written operation and maintenance procedures for municipal activities in Part 2.3.7.a.ii;
   3. Written program detailing the activities and procedures the permittee will implement so that the MS4 infrastructure is maintained in a timely manner to reduce the discharge of pollutants from the MS4 in accordance with Part 2.3.7.a.iii.1;
   4. Written procedures to require submission of as-built drawings and ensure long term operation and maintenance in accordance with Part 2.3.6.a.iii;

c. The following information must be included in the SWMP within four (4) years of the permit effective date and updated annually thereafter, as necessary:

   1. Outfall and interconnection inventory;
   2. Sanitary Sewer Overflow (SSO) inventory including all of the information required in Part 2.3.4.4.b;

3. Written IDDE Program pursuant to Part 2.3.4.6.

d. The following information must be included in the SWMP within five (5) years of the permit effective date and updated annually thereafter, as necessary:

   1. Phase 1 of the map of the separate storm sewer system required by Part 2.3.4.5;
   2. Listing of all receiving waterbody segments, their classification under the applicable state water quality standards, any impairment(s) and associated pollutant(s) of concern, applicable TMDLs and WLAs, and number of outfalls from the MS4 that discharge to each waterbody. In addition to the receiving water, the permittee shall document in the SWMP all surface public drinking water sources that may be impacted by MS4 discharges;
   3. Listing of all interconnected MS4s and other separate storm sewer systems receiving a discharge from the permitted MS4, the receiving waterbody segment(s) ultimately receiving the discharge, their classification under the applicable state water quality standards, any impairment(s) and associated pollutant(s) of concern, applicable TMDLs and WLAs, and the number of interconnections;

e. The following information must be included in the SWMP within six (6) years of the permit effective date and updated annually thereafter, as necessary:

   1. Report(s) assessing current street design and parking lot guidelines and other local requirements within the municipality that affect the creation of impervious cover.

f. The following information must be included in the SWMP concurrent with the applicable deadlines in Appendix F and H (extended by two (2) years) and updated annually thereafter, as necessary:

   1. Description of practices to achieve compliance with Part 2.2.1 (discharges subject to requirements related to approved TMDLs) including:
      a. The person(s) or department responsible for the measure;
      b. The BMPs for the control measure or permit requirement;
      c. The measurable goal(s) for each BMP. Each measurable goal shall include milestones and timeframes for its implementation and have a quantity or quality associated with its endpoint. Each goal must have an associated measure of assessment.
   2. Description of practices to achieve compliance with Part 2.2.2 (discharges to certain water quality limited waters subject to additional requirements) including:
      a. The person(s) or department responsible for the measure;
      b. The BMPs for the control measure or permit requirement;
      c. The measurable goal(s) for each BMP. Each measurable goal shall include milestones and timeframes for its implementation and have a quantity or

quality associated with its endpoint. Each goal must have an associated measure of assessment;

3. Description of any other practices to achieve compliance with Part 2.1 (water quality based requirements).

2.0 Non-Numeric Effluent Limitations

The permittee shall develop, implement and enforce a program to reduce the discharge of pollutants from the MS4 to the maximum extent practicable; to protect water quality and to satisfy the appropriate water quality requirements of the Clean Water Act and the New Hampshire Water Quality Standards.

2.1 Water Quality Based Effluent Limitations

Pursuant to Clean Water Act 402(p)(3)(B)(iii), this permit includes provisions to ensure that discharges from the permittee's small MS4 do not cause or contribute to an exceedance of water quality standards, in addition to requirements to reduce the discharge of pollutants to the maximum extent practicable. The requirements found in this Part and Part 2.2 constitute the water quality based effluent limits of this permit. Requirements to reduce the discharge of pollutants to the maximum extent practicable are set forth in Part 2.3.

2.1.1 Requirement to Meet Water Quality Standards

a. The permittee shall reduce the discharge of pollutants such that discharges from the MS4 do not cause or contribute to an exceedance of water quality standards.

b. If there is a discharge from the MS4 to a waterbody (or its tributaries in some cases) that is subject to an approved TMDL identified in Part 2.2.1, the permittee is subject to the requirements of Part 2.2.1 and Appendix F of this permit and the permittee shall comply with all applicable schedules and requirements in Appendix F for that discharge. A permittee's compliance with all applicable requirements and BMP implementation schedules in Appendix F applicable to it will constitute compliance with Part 2.1.1.a. of the Permit.

c. If there is a discharge from the MS4 to a waterbody (or its tributaries in some cases) that is water quality limited (see definition in Appendix A) due to nutrients (total nitrogen or total phosphorus), metals (cadmium, copper, iron, lead, or zinc), solids (sedimentation/siltation or turbidity), bacteria/pathogens (E. Coli, Enterococcus or fecal coliform), chloride or oil and grease (Oil Slicks, Benzo(a) pyrene (PAHs)) and is not subject to an approved TMDL, or the MS4 is located within a municipality listed in Part 2.2.2.a.-b., the permittee is subject to the requirements of Part 2.2.2 and Appendix H of this permit and the permittee shall comply with all applicable schedules and requirements in Appendix H for that discharge. A permittee's compliance with all applicable requirements and BMP implementation schedules in Appendix H applicable to it will constitute compliance with Part 2.1.1.a. of the Permit.

d. Except where a pollutant of concern in a discharge is subject to the requirements of Part 2.2.1 and/or Part 2.2.2 of this permit or is the result of an illicit discharge and subject to Part 2.3.4 of this permit, if a pollutant in a discharge from the MS4 is causing or contributing to a violation of applicable water quality criteria[2] for the receiving water, the permittee shall, as expeditiously as possible, but no later than 60 days of becoming aware of the situation, reduce or eliminate the pollutant in its discharge such that the discharge meets applicable water quality criteria.

2.1.2 Increased Discharges

a. Any increased discharge (including increased pollutant loadings) through the MS4 to waters of the United States is subject to New Hampshire antidegradation regulations. The permittee shall comply with the provisions of N.H. Code Admin. R. Part Env-Wq 1708.04 and 1708.06 including information submittal requirements and obtaining authorization for increased discharges where appropriate. Any authorization of an increased discharge by NH DES shall be incorporated into the permittee's SWMP. If an applicable NH DES approval specifies additional conditions or requirements, then those requirements are incorporated into this permit by reference. The permittee must comply with all such requirements[3].

b. There shall be no new or increased discharges from the MS4 to *impaired waters* listed in categories 5 or 4b on the most recent EPA-approved New Hampshire Integrated Report of waters listed pursuant to Clean Water Act section 303(d) and 305(b) unless the permittee demonstrates that there is no net increase in loading from the MS4 to the impaired water of the pollutant(s) for which the waterbody is impaired. The permittee may demonstrate compliance with this provision by *either:*

   1. Documenting that the pollutant(s) for which the waterbody is impaired is not present in the MS4's discharge and retain documentation of this finding with the SWMP; *or*

   2. Documenting that the total load of the pollutant(s) of concern from the MS4 to any impaired portion of the receiving water will not increase as a result of the activity and retain documentation of this finding in the SWMP. Unless otherwise determined by the Permittee, USEPA or by NH DES that additional demonstration is necessary, compliance with the requirements of Part 2.2.2 and Part 2.3.6 of this permit, including all reporting and documentation requirements, shall be considered as demonstrating no net increase as required by this Part.

c. The requirements of this section are independent of permit conditions requiring reduction in discharges of pollutants as set forth in Parts 2.1.1 and 2.2 (water quality based requirements) and 2.3 (requirements to reduce discharge of pollutants to the maximum extent practicable). Permittees remain subject to requirements to reduce the discharge of pollutants from the MS4 as set forth in those Parts.

2.2 Discharges to Certain Impaired Waters

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[2] Applicable water quality criteria are part of the state standards that have been federally approved as of the effective date of this permit and are compiled by EPA at http://www.epa.gov/waterscience/standards/wqslibrary/

[3] For information regarding compliance with N.H. Code Admin. R. Part Env-Wq 1708.04 and 1708.06 , contact the NHDES Watershed Management Bureau.

The permittee shall identify in the SWMP and Annual Reports all discharges, including both outfalls and interconnections to other MS4 or other separate storm sewer systems, that:

a. Are subject to an approved Total Maximum Daily Load (TMDL) as identified in Part 2.2.1;
b. Are subject to additional requirements to protect water quality as identified in Part 2.2.2.

The discharge location from an interconnection shall be determined based on the receiving water of the ultimate outfall in the interconnected system.

2.2.1 Discharges Subject to Requirements Related to an Approved TMDL

a. "Approved TMDLs" for discharges from the permittee's MS4 are those that have been approved by EPA as of the issuance date of this permit.

b. For those TMDLs that specify a wasteload allocation or other requirements either individually or categorically for the MS4 discharge, the permittee shall comply with the applicable requirements of Appendix F. Appendix F identifies, by section, the provisions and schedules the permittee shall comply with to be consistent with the terms of the approved TMDL.

c. The "TMDL for 158 Acid Impaired Ponds and 21 Aluminum Impaired Lakes" and the "Northeast Regional Mercury TMDL" do not specify wasteload allocations or other requirements either individually or categorically for the MS4 discharges and specify that load reductions are to be achieved through reduction in atmospheric deposition sources. No requirements related to these TMDLs are imposed on MS4 discharges under this Part. However, if the permittee becomes aware, or EPA or NHDES determines, that an MS4 discharge is causing or contributing to such impairments to an extent that cannot be explained by atmospheric deposition (e.g. chemical spill, acid landfill leachate or other sources), the permittee shall comply with the requirements of Part 2.1.1.d.

d. The following is a list of municipalities that contain waters subject to an approved TMDL for chlorides:

   1.
      DERRY
      LONDONDERRY
      SALEM
      WINDHAM

   The operators of MS4s located in municipalities listed above that discharge to Beaver Brook, Dinsmore Brook, North Tributary to Canobie Lake, or Policy-Porcupine Brook and any other MS4 that discharges directly to Beaver Brook, Dinsmore Brook, North Tributary to Canobie Lake, or Policy-Porcupine Brook shall meet the requirements of Appendix F Part I with respect to reduction of chloride discharges from their MS4.

e. The following is a list of municipalities that contain waters subject to an approved TMDL for bacteria or pathogens.

1.

ALLENSTOWN
AMHERST
ATKINSON
AUBURN
BEDFORD
DERRY
DOVER
DURHAM
EXETER
GOFFSTOWN
GREENLAND
HAMPSTEAD
HAMPTON
HOLLIS
HOOKSETT
HUDSON
KINGSTON
LITCHFIELD
LONDONDERRY
MANCHESTER
MERRIMACK
MILFORD
MILTON
NASHUA
NEW CASTLE
NEWMARKET
NORTH HAMPTON
PELHAM
PLAISTOW
PORTSMOUTH
RAYMOND
ROCHESTER
ROLLINSFORD
RYE
SALEM
SANDOWN
SEABROOK
SOMERSWORTH
STRATHAM
WILTON
WINDHAM

The operators of MS4s located in municipalities listed above that discharge to a waterbody segment listed on Table F-1 in Appendix F and any other MS4 that discharges directly to a waterbody segment listed on Table F-1 in Appendix F shall meet the requirements of Appendix F, Part II with respect to reduction of bacteria/pathogens discharges from their MS4.

f. The following is a list of municipalities that contain a lake or pond subject to an approved lake or pond phosphorus TMDL,

1.
AMHERST
BEDFORD
DERRY
HOLLIS
HUDSON
KINGSTON
MANCHESTER
MERRIMACK
NEWTON

RAYMOND
SANDOWN

The operators of MS4s located in municipalities listed above that discharge to a waterbody segment listed on Table F-2 in Appendix F or their tributaries, and any other permittee that discharges to waterbodies listed on Table F-2 in Appendix F or their tributaries, shall meet the requirements of Appendix F, Part III with respect to reduction of phosphorus discharges from their MS4.

2.2.2 Discharge to Certain Water Quality Limited Waters without an Approved TMDL

For purposes of this permit, a 'water quality limited water body' is any water body that does not meet applicable water quality standards, including but not limited to waters listed in categories 5 or 4b on the most recent EPA-approved New Hampshire Clean Water Act section 303(d) list or New Hampshire Integrated Report under Clean Water Act section 305(b).

If there is a discharge from the MS4 to a water quality limited waterbody where pollutants typically found in stormwater (specifically nutrients (Total Nitrogen or Total Phosphorus), solids (Sedimentation/Siltation or Turbidity), bacteria/pathogens (Enterococcus, fecal coliform, or Escherichia Coli), chloride (Chloride), metals (Cadmium, Copper, Iron, Lead or Zinc) and oil and grease (Oil Slicks, Benzo(a) pyrene (PAHs)) are the cause of the impairment and there is not an approved TMDL, or the MS4 is located in a town listed in Part 2.2.2.a.-e. the permittee shall comply with the provisions in Appendix H applicable to it.

In the absence of a defined pollutant reduction target and where no approved TMDL has been established, this permit Part and Appendix H define an iterative approach addressing pollutant reductions to waterbodies where the permittee's discharge is causing or contributing to an excursion above water quality standards due to nutrients (nitrogen or phosphorus), solids, bacteria/pathogens, chloride, metals or oil and grease (Oil Slicks, Benzo(a) pyrene (PAHs)).

a. Discharges to water quality limited waterbodies where nitrogen (Total Nitrogen) is the cause of the impairment, or their tributaries

   i. The requirements of this Part are applicable to:

      1. Permittees (including traditional and non-traditional MS4s) that own or operate an MS4 in the following municipalities. Discharges from MS4s within these municipalities are to waterbodies that are impaired due to nitrogen, or their tributaries.

         DANVILLE
         DERRY
         DOVER
         DURHAM
         EXETER
         GREENLAND
         HAMPSTEAD

HAMPTON
KINGSTON
MILTON
NEW CASTLE
NEWMARKET
NORTH HAMPTON
PORTSMOUTH
RAYMOND
ROCHESTER
ROLLINSFORD
RYE
SANDOWN
SOMERSWORTH
STRATHAM

2. Any permittee that, during the permit term, becomes aware that its discharge is to a waterbody that is impaired due to nitrogen, or a tributary of such water.

ii. Permittees subject to Part 2.2.2.a.i above shall meet the requirements of Appendix H Part I with respect to the control of nitrogen discharges from their MS4;

iii. During development of their Notice of Intent, the permittee may determine that there are no regulated discharges of stormwater to a waterbody (or a tributary to a waterbody) on the most recent EPA-approved New Hampshire 303(d) list (as of the effective date of this permit) where Nitrogen ("Total Nitrogen) is the cause of impairment. The permittee shall retain all documentation used in this determination as part of their NOI and are relieved from the requirements of Part 2.2.2.a.i and Appendix H Part I.

b. Discharges to water quality limited waterbodies where phosphorus (Total Phosphorus) is the cause of the impairment, or their tributaries

i. The requirements of this Part are applicable to:

1. Permittees (including traditional and non-traditional MS4s) that own or operate an MS4 in the following municipalities. Discharges from MS4s within these municipalities are to waterbodies that are impaired due to phosphorus, or their tributaries.

ATKINSON
DERRY
DOVER
GOFFSTOWN
HAMPSTEAD
KINGSTON

LITCHFIELD
MANCHESTER
NEWTON
PELHAM
RAYMOND
ROLLINSFORD
SALEM
SANDOWN
SOMERSWORTH
WINDHAM

2. Any permittee that, during the permit term, becomes aware that its discharge is to a waterbody that is water quality limited due to phosphorus, or to a tributary of such water.

ii. The permittees subject to Part 2.2.2.b.i. above shall meet all requirements of Appendix H Part II with respect to the control of phosphorus discharges from the MS4.

iii. During development of their Notice of Intent, the permittee may determine that all discharges from the regulated area through their MS4 are outside of a watershed with a downstream segment on the most recent EPA-approved New Hampshire 303(d) list (as of the effective date of this permit) where phosphorus ("Total Phosphorus) is listed as the cause of impairment. The permittee shall retain all documentation used in this determination as part of their NOI and are relieved from the requirements of Part 2.2.2.b.i and Appendix H Part II.

c. Discharges to water quality limited waterbodies where bacteria or pathogens (Enterococcus, fecal coliform, or Escherichia Coli) is the cause of the impairment

i. The requirements of this Part are applicable to:

1. Permittees (including traditional and non-traditional MS4s) that own or operate an MS4 in the following municipalities. Discharges from MS4s within these municipalities are to waterbodies that are impaired due to bacteria or pathogens.

DERRY
EXETER
HOLLIS
HUDSON
KINGSTON
MANCHESTER
MILTON

NEW CASTLE
NORTH HAMPTON
ROCHESTER
RYE
SALEM
WINDHAM

2. Any permittee that, during the permit term, becomes aware that its discharge is to a waterbody that is water quality limited due to bacteria or pathogens

ii. The permittees subject to Part 2.2.2.c.i. shall meet all requirements of Appendix H Part III with respect to reduction of bacteria or pathogens discharges from the MS4.

iii. During development of their Notice of Intent, the permittee may determine that all discharges from the regulated area through their MS4 are not discharging directly to an impaired waterbody on the most recent EPA-approved New Hampshire 303(d) list where bacteria or pathogens (E. Coli, Enterococcus or Fecal Coliform) is the cause of the impairment. The permittee shall retain all documentation used in this determination as part of their NOI and are relieved from the requirements of Part 2.2.2.c.i and Appendix H Part III.

d. Discharges to water quality limited waterbodies where chloride (Chloride) is the cause of the impairment

i. The requirements of this Part are applicable to:

1. Permittees (including traditional and non-traditional MS4s) that own or operate an MS4 in the following municipalities. Discharges from MS4s within these municipalities are to waterbodies that are impaired due to chloride.

BEDFORD
DERRY
DOVER
DURHAM
EXETER
GOFFSTOWN
GREENLAND
HOOKSETT
LONDONDERRY
MANCHESTER
NASHUA
PORTSMOUTH
RYE

SALEM
SEABROOK
STRATHAM

2. Any permittee that, during the permit term, becomes aware that its discharge is to a waterbody that is water quality limited due to chloride.

ii. The permittees subject to Part 2.2.2.d.i. shall meet all requirements of Appendix H Part IV with respect to reduction of chloride discharges from the MS4.

iii. During development of their Notice of Intent, the permittee may determine that all discharges from the regulated area through their MS4 are not discharging directly to an impaired waterbody on the most recent EPA approved New Hampshire 303(d) list where chloride (Chloride) is the cause of the impairment. The permittee shall retain all documentation used in this determination as part of their NOI and are relieved from the requirements of Part 2.2.2.d.i and Appendix H Part IV.

e. Discharges to water quality limited waterbodies where solids (Total Suspended Solids (TSS) or Turbidity), metals (Cadmium, Copper, Iron, Lead or Zinc) and oil and grease (Oil Slicks, Benzo(a) pyrene (PAHs)), is the cause of the impairment

i. The requirements of this Part are applicable to:

1. Permittees (including traditional and non-traditional MS4s) that own or operate an MS4 in the following municipalities. Discharges from MS4s within these municipalities are to waterbodies that are impaired due to solids, oil and grease (Oil Slicks, Benzo(a) pyrene (PAHs)) or metals.

DERRY
DOVER
EXETER
GOFFSTOWN
GREENLAND
HAMPTON
LONDONDERRY
MANCHESTER
MERRIMACK
NASHUA
NEWMARKET
PORTSMOUTH
RAYMOND
ROCHESTER
SEABROOK

STRATHAM
WILTON

2. Any permittee that, during the permit term, becomes aware that its discharge is to a waterbody that is water quality limited due to solids, oil and grease (Oil Slicks, Benzo(a) pyrene (PAHs))or metals.

ii. The permittees subject to Part 2.2.2.e.i. shall meet all requirements of Appendix H Part V with respect to reduction of solids, oil and grease (Oil Slicks, Benzo(a) pyrene (PAHs)) or metals discharges from the MS4.

iii. During development of their Notice of Intent, the permittee may determine that all discharges from the regulated area through their MS4 are not discharging directly to an impaired waterbody on the most recent EPA approved New Hampshire 303(d) list where oil and grease (Oil Slicks, Benzo(a) pyrene (PAHs)), solids (TSS or Turbidity) or metals (Cadmium, Copper, Iron, Lead or Zinc) is the cause of the impairment. The permittee shall retain all documentation used in this determination as part of their NOI and are relieved from the requirements of Part 2.2.2.e.i and Appendix H Part V.

2.3 Requirements to Reduce Pollutants to the Maximum Extent Practicable (MEP)

The permittee shall reduce the discharge of pollutants from the MS4 to the maximum extent practicable (MEP), as set forth in Parts 2.3.2 through 2.3.7.

2.3.1 Control Measures

a. Permittees authorized under the MS4-2003 shall continue to implement their existing SWMPs while updating their SWMPs pursuant to this permit. This permit does not extend the compliance deadlines set forth in the MS4-2003.

b. Implementation of one or more of the minimum control measures described in Parts 2.3.2- 2.3.7 or other permit requirements may be shared with another entity (including another interconnected MS4) or the other entity may fully implement the measure or requirement, if the following requirements are satisfied:

1. The other entity, in fact, implements the control measure.
2. The particular control measure or component thereof undertaken by the other entity is at least as stringent as the corresponding permit requirement.
3. The other entity agrees to implement the control measure on the permittee's behalf. The annual reports must specify that the permittee is relying on another entity to satisfy some of its permit obligations and specify what those obligations are.
4. If the permittee is relying on another governmental entity regulated under 40 CFR §122 to satisfy all of its permit obligations, including the obligation to file annual reports, the permittee shall note that fact in its NOI, but is not required to file annual reports.

5. The permittee remains responsible for compliance with all permit obligations if the other entity fails to implement the control measures (or component thereof). The permittee may enter into a legally binding agreement with the other entity regarding the other entity's performance of control measures, but the permittee remains ultimately responsible for permit compliance.

2.3.2 Public Education and Outreach

Objective: The permittee shall implement an education program that includes educational goals based on stormwater issues of significance within the MS4 area. The ultimate objective of a public education program is to increase knowledge and change behavior of the public so that pollutants in stormwater are reduced.

2.3.2.1 - The permittee shall continue to implement the public education program required by the MS4-2003 by distributing educational material to the MS4 community. The educational program shall define educational goals, express specific messages, define the targeted audience for each message, and identify responsible parties for program implementation. If appropriate for the target audience, materials may be developed in a language other than English. At a minimum, the program shall provide information concerning the impact of stormwater discharges on water bodies within the community, especially those waters that are impaired or identified as priority waters. The program shall identify steps and/or activities that the public can take to reduce the pollutants in stormwater runoff and their impacts to the environment.

a. The educational program shall include education and outreach efforts for the following four audiences: (1) residents, (2) businesses, institutions (private colleges, private schools, hospitals), and commercial facilities, (3) developers (construction), and (4) industrial facilities, unless one or more of these audiences is not present in the MS4 community. In such a situation, the MS4 must document in both the NOI and SWMP which audience(s) is(are) absent from the community. No educational messages are required to the absent audience(s).

b. Beginning the first year of the permit the permittee shall distribute a minimum of two (2) educational messages over the permit term to each audience identified in Part 2.3.2.1.a.. (The permittee shall distribute at least eight educational messages during the permit term). The distribution of materials to each audience shall be spaced at least a year apart. Educational messages may be printed materials such as brochures or newsletters; electronic materials such as websites; mass media such as newspaper articles or public service announcement (radio or cable); or displays in a public area such as town/city hall. The permittee may use existing materials if they are appropriate for the message the permittee chooses to deliver or the permittee may develop its own educational materials. The permittee may partner with other MS4s, community groups or watershed associations to implement the education program. Some EPA educational materials are available at: http://cfpub.epa.gov/npstbx/index.html.

c. The permittee shall at a minimum consider the topics listed in paragraphs 2.3.2.1c.i. – iv. when developing the outreach/education program. The topics are not exclusive and the permittee shall focus on those topics most relevant to the community.

i. Residential program: effects of outdoor activities such as lawn care (use of pesticides, herbicides, and fertilizers) on water quality; benefits of appropriate on-site infiltration of stormwater; effects of automotive work and car washing on water quality; proper disposal of swimming pool water; proper management of pet waste; maintenance of septic systems. If the small MS4 area has greater than thirty percent of its residents serviced by septic systems, the permittee shall include maintenance of septic systems as part of its education program.

iv. Business/Commercial/Institution program: proper lawn maintenance (use of pesticides, herbicides and fertilizer); benefits of appropriate on-site infiltration of stormwater; building maintenance (use of detergents); use of salt or other de-icing and anti-icing materials (minimize their use); proper storage of salt or other de-icing/anti-icing materials (cover/prevent runoff to storm system and contamination to ground water); proper storage of materials (emphasize pollution prevention); proper management of waste materials and dumpsters (cover and pollution prevention); proper management of parking lot surfaces (sweeping); proper car care activities (washing of vehicles and maintenance); and proper disposal of swimming pool water by entities such as motels, hotels, and health and country clubs (discharges must be dechlorinated and otherwise free from pollutants).

v. Developers and Construction: proper sediment and erosion control management practices; information about Low Impact Development (LID) principles and technologies; and information about EPA's construction general permit (CGP). This education can also be a part of the Construction Site Stormwater Runoff Control measure detailed in Part 2.3.5.

vi. Industrial program: equipment inspection and maintenance; proper storage of industrial materials (emphasize pollution prevention); proper management and disposal of wastes; proper management of dumpsters; minimization of use of salt or other de-icing/anti-icing materials; proper storage of salt or other de-icing/anti-icing materials (cover/prevent runoff to storm system and ground water contamination); benefits of appropriate on-site infiltration of stormwater runoff from areas with low exposure to industrial materials such as roofs or employee parking; proper maintenance of parking lot surfaces (sweeping); and requirements for coverage under EPA's Multi-Sector General Permit.

2.3.2.2 - An effective program shall show evidence of focused messages for specific audiences as well as evidence that progress toward the defined educational goals of the program has been achieved. The permittee shall identify methods that it will use to evaluate the effectiveness of the educational messages and the overall education program. Any methods used to evaluate the effectiveness of the program shall be tied to the defined goals of the program and the overall objective of changes in behavior and knowledge.

2.3.2.3 - The permittee shall modify any ineffective messages or distribution techniques for an audience prior to the next scheduled message delivery.

2.3.2.4 - The permittee shall document in each annual report the messages for each audience; the method of distribution; the measures/methods used to assess the effectiveness of the messages, and the method/measures used to assess the overall effectiveness of the education program in the annual report.

2.3.3 Public Involvement and Participation

Objective: The permittee shall provide opportunities to engage the public to participate in the review and implementation of the permittee's SWMP.

2.3.3.1 - All public involvement activities shall comply with state public notice requirements (NH: RSA Chapter 91-A). The SWMP (consistent with Part 1.10.1) and all annual reports shall be available to the public. The permittee is encouraged to satisfy this requirement by posting records online.

2.3.3.2 - The permittee shall annually provide the public an opportunity to participate in the review and implementation of the SWMP.

2.3.3.3 - The permittee shall report on the activities undertaken to provide public participation opportunities including compliance with Part 2.3.3.1. Public participation opportunities pursuant to Part 2.3.3.2 may include, but are not limited to, websites; hotlines; clean-up teams; monitoring teams; or an advisory committee.

2.3.4. Illicit Discharge Detection and Elimination (IDDE) Program

Objective: The permittee shall implement an IDDE program to systematically find and eliminate sources of non-stormwater discharges to its municipal separate storm sewer system and implement procedures to prevent such discharges.

a. Legal Authority - The IDDE program shall include adequate legal authority to: prohibit illicit discharges; investigate suspected illicit discharges; eliminate illicit discharges, including discharges from properties not owned by or controlled by the MS4 that discharge into the MS4 system; and implement appropriate enforcement procedures and actions. Adequate legal authority consists of a currently effective ordinance, by-law, or other regulatory mechanism. For permittees authorized by the MS4-2003 permit, the ordinance, by-law, or other regulatory mechanism was a requirement of the MS4-2003 permit and was required to be effective by May 1, 2008. For new permittees the ordinance, by-law, or other regulatory mechanism shall be in place within 3 years of the permit effective date.

b. During the development of the new components of the IDDE program required by this permit, permittees authorized by the MS4-2003 permit must continue to implement their existing IDDE program required by the MS4-2003 permit to detect and eliminate illicit discharges to their MS4.

2.3.4.1. Definitions and Prohibitions

The permittee shall prohibit illicit discharges and sanitary sewer overflows (SSOs) to its MS4 and require removal of such discharges consistent with Parts 2.3.4.2 and 2.3.4.4 of this permit.

An SSO is a discharge of untreated sanitary wastewater from a municipal sanitary sewer.

An illicit discharge is any discharge to a municipal separate storm sewer that is not composed entirely of stormwater, except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from fire fighting activities.

2.3.4.2. Elimination of Illicit Discharges

a. Upon detection of an illicit discharge, the permittee shall locate, identify and eliminate the illicit discharge as expeditiously as possible. Upon identification of the illicit source the MS4 notify all responsible parties for any such discharge and require immediate cessation of improper disposal practices in accordance with its legal authorities. Where elimination of an illicit discharge within 60 days of its identification as an illicit discharge is not possible, the permittee shall establish an expeditious schedule for its elimination and report the dates of identification and schedules for removal in the permittee's annual reports. The permittee shall immediately commence actions necessary for elimination. The permittee shall diligently pursue elimination of all illicit discharges. In the interim, the permittee shall take all reasonable and prudent measures to minimize the discharge of pollutants to and from its MS4.

b. The period between identification and elimination of an illicit discharge is not a grace period. Discharges from an MS4 that are mixed with an illicit discharge are not authorized by this Permit (Part 1.3.a) and remain unlawful until eliminated.

2.3.4.3. Non-Stormwater Discharges

The permittee may presume that the sources of non-stormwater listed in Part 1.4 of this permit need not be addressed. However, if the permittee identifies any of these sources as significant contributors of pollutants to the MS4, then the permittee shall implement measures to control these sources so they are no longer significant contributors of pollutants, and/or eliminate them entirely, consistent with Part 2.3.4.

2.3.4.4. Sanitary Sewer Overflows

a. Upon detection of an SSO the permittee shall eliminate it as expeditiously as possible and take interim mitigation measures to minimize the discharge of pollutants to and from its MS4 until elimination is completed.

b. The permittee shall identify all known locations where SSOs have discharged to the

MS4 within the previous five (5) years. This shall include SSOs resulting, during dry or wet weather, from inadequate conveyance capacities, or where interconnectivity of the storm and sanitary sewer infrastructure allows for communication of flow between the systems. Within one (1) year of the effective date of the permit, the permittee shall develop an inventory of all identified SSOs indicating the following information, if available:

1. Location (approximate street crossing/address and receiving water, if any);
2. A clear statement of whether the discharge entered a surface water directly or entered the MS4;
3. Date(s) and time(s) of each known SSO occurrence (i.e., beginning and end of any known discharge);
4. Estimated volume(s) of the occurrence;
5. Description of the occurrence indicating known or suspected cause(s);
6. Mitigation and corrective measures completed with dates implemented; and
7. Mitigation and corrective measures planned with implementation schedules.

The permittee shall maintain the inventory as a part of the SWMP and update the inventory annually, all updates shall include the information in Part 2.3.4.4.b.1-7.

c. In accordance with Paragraph B.12 of Appendix B of this permit, upon becoming aware of an SSO to the MS4, the permittee shall provide oral notice to EPA within 24 hours. Additionally, the permittee shall provide written notice to EPA and NHDES within five (5) days of becoming aware of the SSO occurrence and shall include the information in the updated inventory. The notice shall contain all of the information listed in Part 2.3.4.4.b. Where common notification requirements for SSOs are included in multiple NPDES permits issued to a permittee, a single notification may be made to EPA as directed in the permittee's wastewater or CSO NPDES permit and constitutes compliance with this Part.

d. The permittee shall include and update the SSO inventory in its annual report, including the status of mitigation and corrective measures implemented by the permittee to address each SSO identified pursuant to this Part.

e. The period between detection and elimination of a discharge from the SSO to the MS4 is not a grace period. Discharges from an MS4 that are mixed with an SSO are not authorized by this Permit (Part 1.3.a) and remain unlawful until eliminated.

2.3.4.5. System mapping

The permittee shall revise their system mapping required by the MS4-2003 permit to include more detailed system information. This revised map of the MS4 shall be completed in two phases as outlined below. The mapping shall include a depiction of the permittee's separate storm sewer system in the permit area. The mapping is intended to facilitate the identification of key infrastructure and factors influencing proper system operation, and the potential for illicit sanitary sewer discharges.

a. Phase I: The system map shall be updated within two (2) years of the permit effective date to include the following information:

- Outfalls and receiving waters (required by MS4-2003 permit)
- Open channel conveyances (swales, ditches, etc.)
- Interconnections with other MS4s and other storm sewer systems
- Municipally-owned stormwater treatment structures (e.g., detention and retention basins, infiltration systems, bioretention areas, water quality swales, gross particle separators, oil/water separators, or other proprietary systems)
- Waterbodies identified by name and indication of all use impairments as identified on the most recent EPA approved New Hampshire Integrated List of waters report pursuant to Clean Water Act section 303(d) and 305(b)
- Initial catchment delineations. Any available system data and topographic information may be used to produce initial catchment delineations. For the purpose of this permit, a catchment is the area that drains to an individual outfall or interconnection.

b. Phase II: The system map shall be updated annually as the following information becomes available during implementation of catchment investigation procedures in Part 2.3.4.8. This information must be included in the map for all outfalls within ten (10) years of the permit effective date:

- Outfall spatial location (latitude and longitude with a minimum accuracy of +/-30 feet)
- Pipes
- Manholes
- Catch basins
- Refined catchment delineations. Catchment delineations shall be updated to reflect information collected during catchment investigations
- Municipal sanitary sewer system (if available)
- Municipal combined sewer system (if applicable).

c. Recommended elements to be included in the system map as information becomes available:

- Storm sewer material, size (pipe diameter) and age
- Sanitary sewer system material, size (pipe diameter) and age
- Privately-owned stormwater treatment structures
- Where a municipal sanitary sewer system exists, properties known or suspected to be served by a septic system, especially in high-density urban areas
- Area where the permittee's MS4 has received or could receive flow from septic system discharges (e.g., areas with poor soils, or high ground water elevations unsuitable for conventional subsurface disposal systems)

- Seasonal high water table elevations impacting sanitary alignments
- Topography
- Orthophotography
- Alignments, dates and representation of work completed (with legend) of past illicit discharge investigations (e.g., flow isolation, dye testing, CCTV)
- Locations of suspected, confirmed and corrected illicit discharges (with dates and flow estimates).

d. The mapping may be produced by hand or through computer-aided methods (e.g. GIS). The required scale and detail of the map shall be appropriate to facilitate a rapid understanding of the system by the permittee, EPA and the state. In addition, the mapping shall serve as a planning tool for the implementation and phasing of the IDDE program and demonstration of the extent of complete and planned investigations and corrections. The permittee shall update the mapping as necessary to reflect newly discovered information and required corrections or modifications.

e. The permittee shall report on the progress towards the completion of the system map in each annual report.

2.3.4.6. Written Illicit Discharge Detection and Elimination Program

The IDDE program shall be recorded in a written (hardcopy or electronic) document. The IDDE program shall include each of the elements described in Parts 2.3.4.7 and Part 2.3.4.8, unless the permittee provides a written explanation within the IDDE program as to why a particular element is not applicable to the permittee.

Notwithstanding the permittee's explanation, EPA may at any time determine that a particular element is in fact applicable to the permittee and require the permittee to add it to the IDDE program. The written (hardcopy or electronic) IDDE program shall be completed within one (1) year of the effective date of the permit and updated in accordance with the milestones of this Part. The permittee shall implement the IDDE program in accordance with the goals and milestones contained in this Part.

a. The written (hardcopy or electronic) IDDE program shall include a reference or citation of the authority the permittee will use to implement all aspects of the IDDE program.

b. Statement of IDDE Program Responsibilities - The permittee shall establish a written (hardcopy or electronic) statement that clearly identifies responsibilities with regard to eliminating illicit discharges. The statement shall identify the lead municipal agency(ies) or department(s) responsible for implementing the IDDE Program as well as any other agencies or departments that may have responsibilities for aspects of the program (e.g., board of health responsibilities for overseeing septic system construction; sanitary sewer system staff; inspectional services for enforcing plumbing codes; town counsel responsibilities in enforcement actions, etc.). Where multiple departments and agencies have responsibilities with respect to the IDDE program specific areas of responsibility shall be defined and processes for coordination and data sharing shall be established and documented.

c. Program Procedures – The permittee shall include in the IDDE program all written (hardcopy or electronic) procedures developed in accordance with the requirements and timelines in Parts 2.3.4.7 and 2.3.4.8 below. At a minimum this shall include the written procedures for dry weather outfall screening and sampling and for catchment investigations.

2.3.4.7. Assessment and Priority Ranking of Outfalls/Interconnections

The permittee shall assess and priority rank the outfalls in terms of their potential to have illicit discharges and SSOs and the related public health significance. This ranking will determine the priority order for screening of outfalls and interconnections pursuant to Part 2.3.4.7.b, catchment investigations for evidence of illicit discharges and SSOs pursuant to Part 2.3.4.8, and provides the basis for determining permit milestones of this Part.

a. Outfall/Interconnection Inventory and Initial Ranking:
An initial outfall and interconnection inventory and priority ranking to assess illicit discharge potential based on existing information shall be completed within one (1) year from the effective date of the permit; an updated inventory and ranking will be provided in each annual report thereafter. The inventory shall be updated annually to include data collected in connection with the dry weather screening and other relevant inspections conducted by the permittee.

i. The outfall and interconnection inventory will identify each outfall and interconnection discharging from the MS4, record its location and condition, and provide a framework for tracking inspections, screenings and other activities under the permittee's IDDE program.

- An outfall means a point source as defined by 40 CFR § 122.2 as the point where the municipal separate storm sewer discharges to waters of the United States. An outfall does not include open conveyances connecting two municipal separate storm sewers or pipes, tunnels or other conveyances that connect segments of the same stream or other waters of the United States and that are used to convey waters of the United States. (40 CFR § 122.26(b)(9)). However, it is strongly recommended that a permittee inspect all accessible portions of the system as part of this process. Culverts longer than a simple road crossing shall be included in the inventory unless the permittee can confirm that they are free of any connections and simply convey waters of the United States.
- An interconnection means the point where the permittee's MS4 discharges to another MS4 or other storm sewer system, through which the discharge is conveyed to waters of the United States or to another storm sewer system and eventually to a water of the United States.

ii. The permittee shall classify each of the permittee's outfalls and interconnections into one of the following categories:

- Problem Outfalls: Outfalls/interconnections with known or suspected contributions of illicit discharges based on existing information shall be designated as Problem Outfalls. This shall include any outfalls/interconnections where previous screening indicates likely sewer input.[4] Problem Outfalls need not be screened pursuant to Part 2.3.4.7.b.
- High Priority Outfalls: Outfalls/interconnections that have not been classified as Problem Outfalls and that are:
  - discharging to an area of concern to public health due to proximity of public beaches, recreational areas, drinking water supplies or shellfish beds;
  - determined by the permittee as high priority based on the characteristics listed below or other available information;
- Low Priority Outfalls: Outfalls/interconnections determined by the permittee as low priority based on the characteristics listed below or other available information.
- Excluded outfalls: outfalls/interconnections with no potential for illicit discharges may be excluded from the IDDE program. This category is limited to roadway drainage in undeveloped areas with no dwellings and no sanitary sewers; drainage for athletic fields, parks or undeveloped green space and associated parking without services; cross-country drainage alignments (that neither cross nor are in proximity to sanitary sewer alignments) through undeveloped land.

iii. The permittee shall priority rank outfalls into the categories above (except for excluded outfalls), based on the following characteristics of the defined initial catchment area where information is available:

- Past discharge complaints and reports.
- Poor receiving water quality- the following guidelines are recommended to identify waters as having a high illicit discharge potential: exceeding water quality standards for bacteria; ammonia levels above 0.5 mg/l; surfactants levels greater than or equal to 0.25 mg/l.
- Density of generating sites- Generating sites are those places, including institutional, municipal, commercial, or industrial sites, with a potential to generate pollutants that could contribute to illicit discharges. Examples of these sites include, but are not limited to, car dealers; car washes; gas stations;

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[4] Likely sewer input indicators are any of the following:
- Olfactory or visual evidence of sewage,
- Ammonia $\geq$ 0.5 mg/L, surfactants $\geq$ 0.25 mg/L, and bacteria levels greater than the water quality criteria applicable to the receiving water, or
- Ammonia $\geq$ 0.5 mg/L, surfactants $\geq$ 0.25 mg/L, and detectable levels of chlorine.

garden centers; and industrial manufacturing areas.

- Age of development and infrastructure – Industrial areas greater than 40 years old and areas where the sanitary sewer system is more than 40 years old will probably have a high illicit discharge potential. Developments 20 years or younger will probably have a low illicit discharge potential.
- Sewer conversion – contributing catchment areas that were once serviced by septic systems, but have been converted to sewer connections may have a high illicit discharge potential.
- Historic combined sewer systems – contributing areas that were once serviced by a combined sewer system, but have been separated may have a high illicit discharge potential.
- Surrounding density of aging septic systems – Septic systems thirty years or older in residential land use areas are prone to have failures and may have a high illicit discharge potential.
- Culverted streams – any river or stream that is culverted for distances greater than a simple roadway crossing may have a high illicit discharge potential.
- Water quality limited waterbodies that receive a discharge from the MS4 or waters with approved TMDLs applicable to the permittee, where illicit discharges have the potential to contain the pollutant identified as the cause of the water quality impairment.
- The permittee may also consider additional relevant characteristics, including location-specific characteristics; if so, the permittee shall include the additional characteristics in its written (hardcopy or electronic) IDDE program.

b. Dry Weather Outfall and Interconnection Screening and Sampling
All outfalls/interconnections (excluding Problem and excluded Outfalls) shall be inspected for the presence of dry weather flow within three (3) years of the permit effective date. The permittee shall screen all High and Low Priority Outfalls in accordance with their initial ranking developed at Part 2.3.4.7.a.

i. Written procedure: The permittee shall develop an outfall and interconnection screening and sampling procedure to be included in the IDDE program within one (1) year of the permit effective date. This procedure shall include the following procedures for:

- sample collection,
- use of field kits,
- storage and conveyance of samples (including relevant hold times), and
- field data collection and storage.

An example screening and sampling protocol (*EPA New England Bacterial Source Tracking Protocol*) can be found on EPA's website.

ii. Weather conditions: Dry weather screening and sampling shall proceed only when no more than 0.1 inches of rainfall has occurred in the previous 24-hour period and no significant snow melt is occurring.

iii. Screening requirements: For each outfall/interconnection:

1. The permittee shall record all of the following information and include it in the outfall/interconnection inventory and priority ranking:

   - unique identifier,
   - receiving water,
   - date of most recent inspection,
   - dimensions,
   - shape,
   - material (concrete, PVC),
   - spatial location (latitude and longitude with a minimum accuracy of +/-30 feet,
   - physical condition,
   - indicators of potential non-stormwater discharges (including presence or evidence of suspect flow and sensory observations such as odor, color, turbidity, floatables, or oil sheen).

2. If an outfall/interconnection is inaccessible or submerged, the permittee shall proceed to the first accessible upstream manhole or structure for the observation and sampling and report the location with the screening results.

3. If no flow is observed, but evidence of illicit flow exists, the permittee shall revisit the outfall during dry weather within one week of the initial observation, if practicable, to perform a second dry weather screening and sample any observed flow (proceed as in iv. below).

4. Where dry weather flow is found at an outfall/interconnection, at least one (1) sample shall be collected, and:

   a) Samples shall be analyzed at a minimum for:

      - ammonia,
      - chlorine,
      - conductivity,
      - salinity,
      - *E. coli* (freshwater receiving water) or enterococcus (saline or brackish receiving water),
      - surfactants (such as MBAS),
      - temperature, and

- pollutants of concern[5]

b) All analyses with the exception of indicator bacteria and pollutants of concern can be performed with field test kits or field instrumentation and are not subject to 40 CFR Part 136 requirements. Sampling for bacteria and pollutants of concern shall be conducted using the analytical methods found in 40 CFR §136, or alternative methods approved by EPA in accordance with the procedures in 40 CFR §136. Sampling for ammonia and surfactants must use sufficiently sensitive methods to detect those parameters at or below the threshold indicator concentrations of 0.5 mg/L for ammonia and 0.25 mg/L for surfactants. Sampling for residual chlorine must use a method with a detection limit of 0.02 mg/L or 20 ug/L.

iv. The permittee may rely on screening conducted under the MS4-2003 permit, pursuant to an EPA enforcement action, or by the state or EPA to the extent that it meets the requirements of Part 2.3.4.7.b.iii.4. All data shall be reported in each annual report. Permittees that have conducted substantially equivalent monitoring to that required by Part 2.3.4.7.b as part of an EPA enforcement action can request an exemption from the requirements of Part 2.3.4.7.b by submitting a written request to EPA and retaining exemption approval from EPA as part of the SWMP. Until the permittee receives formal written approval of the exemption from Part 2.3.4.7.b from EPA the permittee remains subject to all requirements of Part 2.3.4.7.b.

v. The permittee shall submit all screening data used in compliance with this Part in its Annual Report.

c. Follow-up ranking of outfalls and interconnections:

i. The permittee's outfall and interconnection ranking (2.3.4.7.a) shall be updated to reprioritize outfalls and interconnections based on information gathered during dry weather screening (Part 2.3.4.7.b).

ii. Outfalls/interconnections where relevant information was found indicating sewer input to the MS4 or sampling results indicating sewer input[6] shall be considered highly likely to contain illicit discharges from sanitary sources, and such outfalls/interconnections shall be ranked at the top of the High Priority Outfalls category for investigation. At this time, permittees may choose to rank other outfalls and interconnections based on any new information from the dry weather screening.

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[5] Where the discharge is directly into a water quality limited water or a water subject to an approved TMDL as indicated in Appendix F; the sample shall be analyzed for the pollutant(s) of concern identified as the cause of the impairment as specified in Appendix G

[6] Likely sewer input indicators are any of the following:

- Olfactory or visual evidence of sewage,
- Ammonia ≥ 0.5 mg/L, surfactants ≥ 0.25 mg/L, and bacteria levels greater than the water quality criteria applicable to the receiving water, or
- Ammonia ≥ 0.5 mg/L, surfactants ≥ 0.25 mg/L, and detectable levels of chlorine.

iii. The ranking can be updated continuously as dry weather screening information becomes available, but shall be completed within three (3) years of the effective date of the permit.

2.3.4.8. Catchment Investigations

The permittee shall develop a systematic procedure to investigate each catchment associated with an outfall or interconnection within their MS4 system.

a. Timelines:

- A written catchment investigation procedure (hardcopy or electronic) shall be developed within 18 months of the permit effective date in accordance with the requirements of Part 2.3.4.8.b below.
- Investigations of catchments associated with Problem Outfalls shall begin no later than two (2) years from the permit effective date.
- Investigations of catchments associated with High and Low Priority Outfalls shall follow the ranking of outfalls updated in Part 2.3.4.7.c.
- Investigations of catchments associated with Problem Outfalls shall be completed within seven (7) years of the permit effective date
- Investigations of catchments where any information gathered on the outfall/interconnection identifies sewer input[7] shall be completed within seven (7) years of the permit effective date.
- Investigations of catchments associated with all High- and Low-Priority Outfalls shall be completed within ten (10) years of the permit effective date.

*For the purposes of these milestones, an individual catchment investigation will be considered complete if all relevant procedures in Part 2.3.4.8.c. and 2.3.4.8.d. below have been completed.

b. A written catchment investigation procedure shall be developed that:

i. **Identifies maps, historic plans and records, and other sources of data,** including but not limited to plans related to the construction of the storm drain and of sanitary sewers, prior work performed on the storm drains or sanitary sewers, board of health or other municipal data on septic system failures or

[7] Likely sewer input indicators are any of the following:

- Olfactory or visual evidence of sewage,
- Ammonia $\geq$ 0.5 mg/L, surfactants $\geq$ 0.25 mg/L, and bacteria levels greater than the water quality criteria applicable to the receiving water, or
- Ammonia $\geq$ 0.5 mg/L, surfactants $\geq$ 0.25 mg/L, and detectable levels of chlorine.

required upgrades, and complaint records related to SSOs, sanitary sewer surcharges, and septic system breakouts. These data sources will be used in identifying system vulnerability factors within each catchment.

ii. **Includes a manhole inspection methodology** that shall describe a storm drain network investigation that involves systematically and progressively observing, sampling (as required below) and evaluating key junction manholes (see definition in Appendix A) in the MS4 to determine the approximate location of suspected illicit discharges or SSOs. The manhole inspection methodology may either start from the outfall and work up the system or start from the upper parts of the catchment and work down the system or be a combination of both practices. Either method must, at a minimum, include an investigation of each key junction manhole within the MS4, even where no evidence of an illicit discharge is observed at the outfall. The manhole inspection methodology must describe the method the permittee will use. The manhole inspection methodology shall include procedures for dry and wet weather investigations.

iii. **Establishes procedures to isolate and confirm sources of illicit discharges** where manhole investigations or other physical evidence or screening has identified that MS4 alignments are influenced by illicit discharges or SSOs. These shall include isolation of the drainage area for implementation of more detailed investigations, inspection of additional manholes along the alignment to refine the location of potential contaminant sources, and methods such as sandbagging key junction manhole inlets, targeted internal plumbing inspections, dye testing, video inspections, or smoke testing to isolate and confirm the sources.

c. Requirements for each catchment investigation associated with an outfall/interconnection:

i. For each catchment being investigated, the permittee shall review relevant mapping and historic plans and records gathered in accordance with Part 2.3.4.8.b.i. This review shall be used to identify areas within the catchment with higher potential for illicit connections. The permittee shall identify and record the presence of any of the following specific **System Vulnerability Factors (SVFs)**:

- History of SSOs, including, but not limited to, those resulting from wet weather, high water table, or fat/oil/grease blockages;
- Common or twin-invert manholes serving storm and sanitary sewer alignments;
- Common trench construction serving both storm and sanitary sewer alignments;
- Crossings of storm and sanitary sewer alignments where the sanitary system is shallower than the storm drain system;
- Sanitary sewer alignments known or suspected to have been constructed with an underdrain system;
- Inadequate sanitary sewer level of service (LOS) resulting in regular

surcharging, customer back-ups, or frequent customer complaints;
- Areas formerly served by combined sewer systems;
- Sanitary sewer infrastructure defects such as leaking service laterals, cracked, broken, or offset sanitary infrastructure, directly piped connections between storm drain and sanitary sewer infrastructure, or other vulnerability factors identified through Inflow/Infiltration Analyses, Sanitary Sewer Evaluation Surveys, or other infrastructure investigations.

EPA recommends the permittee include the following in their consideration of System Vulnerability Factors:

- Sewer pump/lift stations, siphons, or known sanitary sewer restrictions where power/equipment failures or blockages could readily result in SSOs;
- Any sanitary sewer and storm drain infrastructure greater than 40 years old;
- Widespread code-required septic system upgrades required at property transfers (indicative of inadequate soils, water table separation, or other physical constraints of the area rather than poor owner maintenance);
- History of multiple Board of Health actions addressing widespread septic system failures (indicative of inadequate soils, water table separation, or other physical constraints of the area rather than poor owner maintenance);

The permittee shall document the presence or absence of System Vulnerability Factors for each catchment, retain this documentation as part of its IDDE program, and report this information in Annual Reports. Catchments with a minimum of one (1) System Vulnerability Factor are subject to wet weather sampling requirements of Part 2.3.4.8.c.ii.2.

ii. For each catchment, the permittee must inspect key junction manholes and gather catchment information on the locations of MS4 pipes, manholes, and the extent of the contributing catchment.

1. For all catchments
   a) Infrastructure information shall be incorporated into the permittee's mapping required at Part 2.3.4.5; the permittee will refine their catchment delineation based on the field investigation where appropriate.
   b) The SVF inventory for the catchment will be updated based on information obtained during the inspection, including common (twin invert) manholes, directly piped connections between storm drains and sanitary sewer infrastructure, common weir walls, sanitary sewer underdrain connections and other structural vulnerabilities where sanitary discharges could enter the storm drain system during wet weather.
      1) **Where a minimum of one (1) SVF is identified based on previous information or the investigation, a wet weather investigation must be conducted at the associated outfall (see**

below).

c) During dry weather, key junction manholes[8] shall be opened and inspected systematically for visual and olfactory evidence of illicit connections (e.g., excrement, toilet paper, gray filamentous bacterial growth, or sanitary products present).
   1) If flow is observed, the permittee shall sample the flow at a minimum for ammonia, chlorine and surfactants and can use field kits for these analyses.
   2) Where sampling results or visual or olfactory evidence indicate potential illicit discharges or SSOs, the area draining to the junction manhole shall be flagged for further upstream investigation.

d) Key junction and subsequent manhole investigations will proceed until the location of suspected illicit discharges or SSOs can be isolated to a pipe segment between two manholes. If no evidence of an illicit discharge is found, catchment investigations will be considered complete upon completion of key junction manhole sampling.

2. For all catchments with a minimum of one (1) SVF identified
   a) The permittee shall meet the requirements above for dry weather screening
   b) The permittee shall inspect and sample under wet weather conditions to the extent necessary to determine whether wet weather-induced high flows in sanitary sewers or high groundwater in areas served by septic systems result in discharges of sanitary flow to the MS4.
      1) The permittee shall conduct at least one wet weather screening and sampling at the outfall that includes the same parameters required during dry weather screening, Part 2.3.4.7.b.iii.4.
      2) Wet weather sampling and screening shall proceed during or after a storm event of sufficient depth or intensity to produce a stormwater discharge. EPA strongly recommends sampling during the spring (March through June) when groundwater levels are relatively high.
      3) The permit does not require a minimum rainfall event prior to wet weather screening. However, permittees may incorporate provisions that assist in targeting such discharges, including avoiding sampling during the initial period of discharge ("first flush") and/or identifying minimum storm event intensities likely to trigger sanitary sewer interconnections.
   c) This sampling can be done upon completion of any dry weather investigation but must be completed before the catchment investigation is

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[8] Where catchments do not contain junction manholes, the dry weather screening and sampling shall be considered as meeting the manhole inspection requirement. In these catchments, dry weather screenings that indicate potential presence of illicit discharges shall be further investigated pursuant to part 2.3.4.8.d. Investigations in these catchments may be considered complete where dry weather screening reveals no flow; no evidence of illicit discharges or SSOs is indicated through sampling results or visual or olfactory means; and no wet weather System Vulnerability Factors are identified.

marked as complete.

iii. All data collected as part of the dry and wet weather catchment investigations shall be recorded and reported in each annual report.

d. Identification/Confirmation of illicit source
Where the source of an illicit discharge has been approximated between two manholes in the permittee's MS4, the permittee shall isolate and identify/confirm the source of the illicit discharge using more detailed methods identified in their written procedure (2.3.4.8.b.iii). For outfalls that contained evidence of an illicit discharge, catchment investigations will be considered complete upon confirmation of all illicit sources.

e. Illicit discharge removal
When the specific source of an illicit discharge is identified, the permittee shall exercise its authority as necessary to require its removal pursuant to Part 2.3.4.2 or 2.3.4.3.

i. For each confirmed source the permittee shall include in the annual report the following information:

- the location of the discharge and its source(s);
- a description of the discharge;
- the method of discovery;
- date of discovery;
- date of elimination, mitigation or enforcement action OR planned corrective measures and a schedule for completing the illicit discharge removal; and
- estimate of the volume of flow removed.

ii. Within one year of removal of all identified illicit discharges within a catchment area, confirmatory outfall or interconnection screening shall be conducted. The confirmatory screening shall be conducted in dry weather unless System Vulnerability Factors have been identified, in which case both dry weather and wet weather confirmatory screening shall be conducted. If confirmatory screening indicates evidence of additional illicit discharges, the catchment shall be scheduled for additional investigation.

2.3.4.9. Indicators of IDDE Program Progress

The permittee shall define or describe indicators for tracking program success and evaluate and report on the overall effectiveness of the IDDE program in each annual report. At a minimum the permittee shall document in each annual report:

- the number of SSOs and illicit discharges identified and removed,
- the number and percent of total outfall catchments served by the MS4

evaluated using the catchment investigation procedure,
- all dry weather and wet weather screening and sampling results and
- the volume of sewage removed

2.3.4.10 Ongoing Screening

Upon completion of all catchment investigations pursuant to Part 2.3.4.8.c and illicit discharge removal and confirmation (if necessary) pursuant to paragraph 2.3.4.8.e, each outfall or interconnection shall be reprioritized for screening in accordance with Part 2.3.4.7.a and scheduled for ongoing screening once every five years. Ongoing screening shall consist of dry weather screening and sampling consistent with Part 2.3.4.7.b; wet weather screening and sampling shall also be required at outfalls where wet weather screening was required due to SVFs and shall be conducted in accordance with Part 2.3.4.8.c.ii. All sampling results shall be reported in the permittee's annual report.

2.3.4.11 Training

The permittee shall, at a minimum, annually provide training to employees involved in IDDE program about the program, including how to recognize illicit discharges and SSOs. The permittee shall report on the frequency and type of employee training in the annual report.

2.3.5 Construction Site Stormwater Runoff Control

Objective: The objective of an effective construction stormwater runoff control program is to minimize or eliminate erosion and maintain sediment on construction sites so that it is not transported in stormwater and allowed to discharge to a water of the U.S. through the permittee's MS4.

The construction site stormwater runoff control program required by this permit is a separate and distinct program from EPA's stormwater construction permit program (see https://www.epa.gov/npdes/stormwater-discharges-construction-activities#cgp for further information).

2.3.5.1 – Permittees shall implement and enforce a program to reduce pollutants in any stormwater runoff discharged to the MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. The permittee's program shall include disturbances less than one acre if that disturbance is part of a larger common plan of development or sale that would disturb one acre or more. Permittees authorized under the MS4-2003 shall continue to implement their existing programs and shall modify them as necessary to meet the requirements of this Part.

2.3.5.2 - The permittee does not need to apply its construction program requirements to projects that receive a waiver from EPA under the provisions of 40 CFR § 122.26(b) (15) (i).

2.3.5.3 - The construction site stormwater runoff control program shall include the elements in Paragraphs a. through e. of this Part:

a. An ordinance or other regulatory mechanism that requires the use of sediment and erosion control practices at construction sites. In addition to addressing sediment and erosion control, the ordinance must include controls for other wastes on constructions sites such as demolition debris, litter and sanitary wastes. Development of an ordinance or other regulatory mechanism was a requirement of the MS4-2003 (See Part III.B.4) and was required to be effective by May 1, 2008.

b. Written procedures (hardcopy or electronic) for site inspections and enforcement of sediment and erosion control measures. If not already existing, these procedures shall be completed within one (1) year from the effective date of the permit. The procedures shall clearly define who is responsible for site inspections as well as who has authority to implement enforcement procedures. The program shall provide that the permittee may, to the extent authorized by law, impose sanctions to ensure compliance with the local program. These procedures and regulatory authorities shall be documented in the SWMP.

c. Requirements for construction operators to implement a sediment and erosion control program. The program shall include BMPs appropriate for the conditions at the construction site. The program may include references to BMP design standards in state manuals or design standards specific to the MS4. EPA supports and encourages the use of design standards in local programs. Examples of appropriate sediment and erosion control measures for construction sites include local requirements to:

- minimize the amount of disturbed area and protect natural resources;
- stabilize sites when projects are complete or operations have temporarily ceased;
- protect slopes on the construction site;
- protect all storm drain inlets and armor all newly constructed outlets;
- use perimeter controls at the site;
- stabilize construction site entrances and exits to prevent off-site tracking; and
- inspect stormwater controls at consistent intervals.

d. Requirements to control wastes, including but not limited to, discarded building materials, concrete truck wash out, chemicals, litter, and sanitary wastes. These wastes may not be discharged to the MS4.

e. Written procedures (hardcopy or electronic) for site plan review. If not already existing, the procedure for site plan review shall be completed within one (1) year from the effective date of the permit. Site plan review shall include a review by the permittee of the site design, the planned operations at the construction site, planned BMPs during the construction phase, and the planned BMPs to be used to manage runoff created after development. The review procedure shall incorporate procedures for the consideration of potential water quality impacts; procedures for pre-construction review; and procedures for receipt and consideration of information submitted by the public. Site plan review procedure shall include evaluation of opportunities for use of low impact design and green infrastructure. When the opportunity exists, the permittee shall encourage project proponents to incorporate these practices into the site design. The permittee shall track the number of site reviews, inspections, and enforcement actions. This information shall be included as part of each annual report required by Part 4.4.

2.3.6 Stormwater Management in New Development and Redevelopment (Post Construction Stormwater Management)

Objective: The objective of this control measure is to minimize the water quality impact from new development and reduce the water quality impact due to stormwater runoff from a redeveloped site.

a. Permittees shall develop, implement, and enforce a program to address post-construction stormwater runoff from all new development and redevelopment projects that disturb a minimum of one or more acre(s) and discharge into the permittees MS4 at a minimum. Permittees authorized under the MS4-2003 permit shall continue to implement and enforce their program and modify as necessary to meet the requirements of this Part.

   i. The permittee's new development/ redevelopment program shall include projects less than one acre if the project is part of a larger common plan of development or redevelopment which disturbs one or more acre.

   ii. The permittee shall develop or modify, as appropriate, an ordinance or other regulatory mechanism within two (2) years of the effective date of the permit to be consistent with Section 4 Element C and Element D of the Southeast Watershed Alliance's Model Stormwater Standards for Coastal Watershed Communities[9]; OR contain provisions that are as least as stringent as the following:

      a) Low Impact Development (LID) site planning and design strategies must be used to the maximum extent feasible in order to reduce the discharge of stormwater from new development.

      b) Salt storage areas on commercial and industrial new and redevelopment sites shall be covered and loading/offloading areas shall be designed and maintained in accordance with NH DES published guidance (Fact Sheets WD-WMB-4[10] and WD-DWGB-22-30[11]) such that no untreated discharge to receiving waters results. Snow storage areas shall be located in accordance with NH DES published guidance (Fact Sheets WD-WMB-4 and WD-DWGB-22-30) such that no direct untreated discharges to receiving waters are possible from the storage site. Runoff from snow and salt storage areas shall enter treatment areas as specified above before being discharged to receiving waters or allowed to infiltrate into the groundwater.

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[9] Model Stormwater Standards for Coastal Watershed Communities, Southeast Watershed Alliance, December 2012. http://southeastwatershedalliance.org/wp-content/uploads/2013/05/Final_SWA_SWStandards_Dec_20121.pdf.
[10] Environmental Fact Sheet: Road Salt and Water Quality, New Hampshire Department of Environmental Services, 2016. http://des.nh.gov/organization/commissioner/pip/factsheets/wmb/documents/wmb-4.pdf.
[11] Environmental Fact Sheet: Storage and Management of Deicing Materials, New Hampshire Department of Environmental Services, 2011. http://des.nh.gov/organization/commissioner/pip/factsheets/dwgb/documents/dwgb-22-30.pdf.

c) The selection and design of treatment and infiltration practices shall follow the guidance in Volume 2 of the New Hampshire Stormwater Manual[12], where applicable.

d) Post construction stormwater runoff from new development sites shall be controlled by:

1) Retention or treatment of stormwater runoff to the MS4 by one of the following:
    a. Require BMPs that are designed to retain the Water Quality Volume calculated in accordance with N.H. Code Admin. R. Part Env-Wq 1504.10. OR
    b. Require BMPs that are designed to remove 90% of the average annual load of Total Suspended Solids (TSS) generated from the total post-construction impervious area[13] AND 60% of the average annual load of Total Phosphorus (TP) generated from the total post-construction impervious area[14]. Pollutant removal shall be evaluated consistent with Attachment 3 to Appendix F and the Stormwater Best Management Practices (BMP) Performance Analysis[15] or other tools provided by EPA Region 1 consistent with these resources. If EPA Region 1 tools do not address the planned or installed BMP performance any federally or State approved[16] BMP design guidance or performance standards (e.g. State stormwater handbooks and design guidance manuals) may be used to calculate BMP performance.
2) Implement long term maintenance practices of BMPs in accordance with N.H. Code Admin. R. Part Env-Wq 1507.08.

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[12] New Hampshire Stormwater Manual Volume 2: Post-Construction Best Management Practices Selection & Design, New Hampshire Department of Environmental Services, December, 2008. http://des.nh.gov/organization/commissioner/pip/publications/wd/documents/wd-08-20b.pdf.

[13] The required removal percentage is not required for each storm, it is the average removal over a year that is required

[14] The required removal percentage is not required for each storm, it is the average removal over a year that is required

[15] Stormwater Best Management Practices (BMP) Performance Analysis, Tetra Tech, Inc. for U.S. EPA Region 1, Rev. March 2010. https://www3.epa.gov/region1/npdes/stormwater/assets/pdfs/BMP-Performance-Analysis-Report.pdf.

[16] State approved includes any state in the United States, including, but not limited to, approved guidance by the State of New Hampshire

e) Post construction stormwater runoff from redevelopment sites shall be controlled by:

1) Retention or treatment of stormwater runoff from the disturbed portion of the redevelopment site to the MS4 by one of the following:
   a. Require BMPs that are designed to retain or treat the Water Quality Volume calculated in accordance with N.H. Code Admin. R. Part Env-Wq 1504.10 and be designed to remove pollutants in accordance with N.H. Code Admin. R. Part Env-Wq 1507.03; OR
   b. Require BMPs that remove 80% of the average annual load of Total Suspended Solids (TSS) generated from the total post-construction impervious area[17] AND 50% of the average annual load of Total Phosphorus (TP) generated from the total post-construction impervious surface[18]. Pollutant removal shall be calculated consistent with EPA Region 1's BMP Performance Extrapolation Tool or other BMP performance evaluation tool provided by EPA Region 1, where available. If EPA Region 1 tools do not address the planned or installed BMP performance, any federally or State approved[19] BMP design guidance or performance standards (e.g. State stormwater handbooks and design guidance manuals) may be used to calculate BMP performance.
2) Implement long term maintenance practices of BMPs in accordance with N.H. Code Admin. R. Part Env-Wq 1507.08.
3) Offsite mitigation within the same USGS HUC10 or smaller watershed as the redevelopment site may be used to meet the pollutant removal equivalent of the requirements in Part 2.3.6(a)ii.(e)(1)b. and the equivalent groundwater recharge requirements of Part 2.3.6(a)ii.(e)(2) above.

f) Redevelopment that disturbs greater than 1 acre and is exclusively maintenance and improvement of existing roadways shall be exempt from Part 2.3.6(a)ii.(e). Roadway maintenance or improvements that increase the amount of impervious area on the redevelopment site shall meet the requirements of Part 2.3.6(a)ii.(e) fully.

b. For projects subject to the ordinances required by this Part the permittee shall require the submission of as-built drawings within a specified time frame, not to exceed two years from completion of construction projects at a minimum. The as-built drawings must depict all on-site controls designed to manage the stormwater associated with the completed site (post-construction stormwater management). The new development/redevelopment program shall have procedures to ensure adequate long-term operation and maintenance of stormwater management practices that remain in place after the completion of a construction project. These procedures may include the use of dedicated funds or escrow accounts for development projects or the acceptance of ownership by the permittee of all privately owned BMPs. These procedures may also include the development of maintenance contracts between the owner of the BMP and the permittee. Alternatively, these procedures may include the submission of an annual certification documenting the work that has been done over the last 12 months to properly operate and maintain the stormwater control measures. The procedures to require submission of as-built drawings and ensure long term operation and maintenance shall be a part of the SWMP. The permittee shall report in the annual report on the measures that the permittee has utilized to meet this requirement.

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[17] The required removal percentage is not required for each storm,it is the average removal over a year that is required

[18] The required removal percentage is not required for each storm,it is the average removal over a year that is required

[19] State approved includes any state in the United States, including, but not limited to, approved guidance by the State of New Hampshire

c. Within four (4) years of the effective date of this permit, the permittee shall develop a report assessing current street design and parking lot guidelines and other local requirements that affect the creation of impervious cover. This assessment shall be used to provide information to determine if the design standards for streets and parking lots can be modified to support low impact design options. If the assessment indicates that changes can be made, the assessment shall include recommendations and proposed schedules to incorporate policies and standards into relevant documents and procedures to minimize impervious cover attributable to parking areas and street designs. The permittee shall implement all recommendations, in accordance with the schedules contained in the assessment. The permittee shall involve any local planning boards and local transportation boards in this assessment to the extent feasible. The permittee shall report in each annual report on the status of this assessment including any planned or completed changes to local regulations and guidelines.

d. Within four (4) years from the effective date of the permit, the permittee shall develop a report assessing existing local regulations including, but not limited to, zoning and construction codes to determine the feasibility of making, at a minimum, the following green infrastructure practices allowable when appropriate site conditions exist:
    1. Green roofs;
    2. Infiltration practices such as rain gardens, curb extensions, planter gardens, porous and pervious pavements, and other designs to manage stormwater using landscaping and structured or augmented soils; and
    3. Water harvesting devices such as rain barrels and cisterns, and the use of stormwater for non-potable uses.

The assessment shall indicate whether and under what circumstances the practices are allowed in the MS4 jurisdiction. If the practices are not allowed, the permittee shall identify impediments to the use of these practices, and what changes in local regulations may be made to make them allowable, and provide a schedule for implementation of recommendations. The permittee shall implement all recommendations, in accordance with the schedules contained in the assessment. The permittee shall report in each annual report on its findings and progress towards making the practices allowable. (Information available at: http://www.epa.gov/region1/npdes/stormwater/assets/pdfs/AddressingBarrier2LID.pdf)

e. Within four (4) years from the effective date of this permit, the permittee shall complete an inventory and priority ranking of permittee-owned property and existing infrastructure that could be retrofitted with BMPs designed to reduce the frequency, volume and pollutant loads of stormwater discharges to its MS4 through the mitigation of impervious area. Properties and infrastructure for consideration shall include those with the potential for mitigation of on-site impervious area, as well as those that could provide mitigation of off-site impervious area. At a minimum, permittees shall consider municipal property with significant impervious area (including parking lots, buildings, and maintenance yards) that could be mitigated, and open space and undeveloped land available to mitigate impervious area and associated stormwater from proximate offsite properties. MS4 infrastructure to be considered includes existing street right-of-ways, outfalls and conventional stormwater conveyances and controls (including swales and detention practices) that could be readily modified to provide reduction in frequency, volume or pollutant loads of such discharges through the mitigation of impervious cover. The permittee may also include in its inventory properties and infrastructure that are privately-held or that do not contribute stormwater to its MS4.

The inventory and priority ranking shall, at minimum, be a screening level ranking that may be based on existing or readily obtainable data. In determining the potential for retrofitting particular properties, the permittee shall consider, on a screening level and subject to availability of data, factors such as access for maintenance purposes; subsurface geology; depth to water table; site slope and elevation; and proximity to aquifers and subsurface infrastructure including sanitary sewers and septic systems. The permittee may consider public safety when evaluating potential retrofits and any other information the permittee deems relevant to the ranking. In determining its priority ranking, the permittee shall consider, on a screening level and subject to availability of data, factors such as schedules for planned capital improvements to storm and sanitary sewer infrastructure and paving projects; current storm sewer level of service; and control of discharges to impaired waters, first or second order streams, and critical receiving waters; the complexity and cost of implementation; and opportunities for public use and education. For the purposes of this Part, critical receiving waters include public swimming beaches, public drinking water supply sources, outstanding resource waters, cold water fisheries, and shellfish growing areas.

Beginning with the fifth year annual report and in each subsequent annual report, the permittee shall report on those permittee-owned properties and infrastructure inventoried pursuant to Part 2.3.6.e. that have been retrofitted with BMPs to mitigate impervious area. The permittee may also include in its annual report non-MS4 owned property that has been retrofitted with BMPs to mitigate impervious area.

2.3.7 Good House Keeping and Pollution Prevention for Municipal Operations

Objective: The permittee shall implement an operations and maintenance program for permittee operations that includes a training component and has a goal of preventing or reducing pollutant runoff and protecting water quality from all permittee operations.

2.3.7.1 - Operations and Maintenance (O & M) Programs
Within two (2) years from the effective date of the permit, the permittee shall develop, if not already developed, written (hard copy or electronic) operations and maintenance procedures for the municipal activities listed below in Parts 2.3.7.1.a–c. These written O & M procedures shall be included as part of the SWMP.

The permittee must develop an inventory of all such facilities within two (2) years of the effective date of this permit. The permittee shall review this inventory annually and update as necessary.

a. Parks and open space: Establish procedures to address the proper use, storage, and disposal of pesticides, herbicides, and fertilizers (PHF) including minimizing the use of these products and using them only in accordance manufacturer's instruction. Evaluate lawn maintenance and landscaping activities to ensure practices are protective of water quality. Protective practices include reduced use of PHFs, integrated pest management (IPM), recycling or proper disposal of lawn clippings and other vegetative waste, and use of native and drought resistant landscaping materials. Establish procedures for management of trash containers at parks (scheduled cleanings; sufficient number), and for placing signage in areas concerning the proper disposal of pet wastes. Establish procedures to address waterfowl congregation areas where appropriate to reduce waterfowl droppings from entering the MS4. Establish procedures to address erosion or poor vegetative cover when the permittee becomes aware of it; especially if the erosion is within 50 feet of a surface water.

b. Buildings and facilities where pollutants are exposed to stormwater runoff: This includes schools (to the extent they are permittee-owned or operated), town offices, police, and fire stations, municipal pools and parking garages and other permittee-owned or operated buildings or facilities. Evaluate the use, storage, and disposal of petroleum products and other potential stormwater pollutants. Provide employee training as necessary so that those responsible for handling these products know proper procedures. Ensure that Spill Prevention Plans are in place, if applicable, and coordinate with the fire department as necessary. Develop management procedures for dumpsters and other waste management equipment. Sweep parking lots and keep areas surrounding the facilities clean to reduce runoff of pollutants.

c. Vehicles and Equipment: Establish procedures for the storage of permittee vehicles. Vehicles with fluid leaks shall be stored indoors or containment shall be provided until repaired. Evaluate fueling areas owned by the permittee or used by permittee vehicles. If possible, place fueling areas under cover in order to minimize exposure. Establish procedures to ensure that vehicle wash waters are not discharged to the municipal storm sewer system or to surface waters. This permit does not authorize such discharges.

d. Infrastructure Operations and Maintenance

i. The permittee shall establish within two (2) years of the effective date of the permit a written program (hardcopy or electronic) detailing the activities and procedures the permittee will implement so that the MS4 infrastructure is maintained in a timely manner to reduce the discharge of pollutants from the MS4. If the permittee has an existing program to maintain its MS4 infrastructure in a timely manner to reduce or eliminate the discharge of pollutants from the MS4, the permittee shall document the program in the SWMP.

ii. The permittee shall conduct routine inspections, cleaning and maintenance of catch basins such that the following conditions are met:

- Establish a schedule with the goal that the frequency of routine cleaning will ensure that no catch basin at any time will be more than 50% full. A catch basin sump is more than 50% full if the contents within the sump exceed one half the distance between the bottom interior of the catch basin to the invert of the deepest outlet of the catch basin.
- Prioritize a 50% full limit for any catch basins serving catchments draining to impaired waters where the pollutant of concern is sedimentation/siltation, Nitrogen (Total) or Phosphorus (Total). If the majority of the waters are impaired, the permittee shall prioritize cleaning efforts based on the cause of the impairment and the potential for the MS4 to contribute to the impairment. The permittee shall document its prioritization in the SWMP.
- Prioritize inspection and maintenance for catch basins located near construction activities (roadway construction, residential, commercial, or industrial development or redevelopment). Clean catch basins in such areas more frequently if inspection and maintenance activities indicate excessive sediment or debris loadings.
- If a catch basin sump is more than 50% full during two consecutive routine inspections/cleaning events, the permittee shall document that finding, investigate the contributing drainage area for sources of excessive sediment loading, and to the extent practicable, abate contributing sources. The permittee shall describe any actions taken in its annual report.
- The permittee shall document in the SWMP and in the first annual report its plan for optimizing catch basin cleaning, inspection plans, or its schedule for gathering information to develop the optimization plan. Documentation shall include metrics and other information used to reach the determination that the established plan for cleaning and maintenance is optimal for the MS4. The permittee shall keep a log of catch basins cleaned or inspected.
- The permittee shall report in each annual report the total number of catch basins, number inspected, number cleaned, and the total volume or mass of material removed from all catch basins.

iii. The permittee shall establish and implement procedures for sweeping and/or cleaning streets and permittee-owned parking lots. All streets with curbing and/or catch basins in the MS4 regulated area shall be swept and/or cleaned a minimum of once per year in the spring (following winter activities such as sanding). The procedures shall also include more frequent sweeping of targeted areas determined by the permittee on the basis of pollutant load reduction potential, based on inspections, pollutant loads, catch basin cleaning or inspection results, land use, impaired or TMDL waters or other relevant factors as determined by the permittee. The permittee shall report in each annual report the number of miles cleaned and the volume or mass of material removed.

iv. The permittee shall ensure proper storage of catch basin cleanings and street sweepings prior to disposal or reuse such that they do not discharge to receiving waters.

v. The permittee shall establish and implement procedures for winter road maintenance including the use and storage of salt and sand; minimize the use of sodium chloride and other salts, and evaluate opportunities for use of alternative materials; and ensure that snow disposal activities do not result in disposal of snow into waters of the United States. See NHDES, Fact Sheet WMB-3 Snow Disposal, for guidance as to selection and maintenance of snow disposal areas. For purposes of this MS4 Permit, salt shall mean any chloride-containing material used to treat paved surfaces for deicing, including sodium chloride, calcium chloride, magnesium chloride, and brine solutions.

vi. The permittee shall establish and implement inspection and maintenance frequencies and procedures for the storm drain systems and for all stormwater treatment structures such as water quality swales, retention/detention basins, infiltration structures, proprietary treatment devices or other similar structures. All permittee-owned stormwater treatment structures (excluding catch basins) shall be inspected annually at a minimum.

e. The permittee shall report in the annual report on the status of the inventory required by this Part and any subsequent updates; the status of the O&M programs for the permittee-owned facilities and activities in Parts 2.3.7.1.a. – d. of this section; and the maintenance activities associated with each.

f. The permittee shall keep a written record (hardcopy or electronic) of all required activities including but not limited to maintenance activities, inspections and training required by Part 2.3.7.1. The permittee shall maintain, consistent with Part 4.2.1, all records associated with maintenance and inspection activities required by Part 2.3.7.1

2.3.7.2 - Stormwater Pollution Prevention Plan (SWPPP)

The permittee shall develop and fully implement a SWPPP for each of the following permittee-owned or operated facilities: maintenance garages, public works yards, transfer stations, and other waste handling facilities where pollutants are exposed to stormwater. If facilities are located at the same property, the permittee may develop one SWPPP for the entire property. The SWPPP is a separate and different document from the SWMP required in Part 1.10. A SWPPP does not need to be developed for a facility if the permittee has either developed a SWPPP or received a no exposure certification for the discharge under the Multi-Sector General Permit or the discharge is authorized under another NPDES permit.

a. No later than two years from the effective date of the permit, the permittee shall develop and implement a written SWPPP for the facilities described above. The SWPPP shall be signed in accordance with the signatory requirements of Appendix B – Subparagraph 11.

b. The SWPPP shall contain the following elements:

i. Pollution Prevention Team
Identify the staff on the team, by name and title. If the position is unstaffed, the title of the position will be included and the SWPPP updated when the position is filled. The role of the team is to develop, implement, maintain, and revise, as necessary, the SWPPP for the facility.

ii. Description of the facility and identification of potential pollutant sources. The SWPPP shall include a map of the facility and a description of the activities that occur at the facility. The map shall show the location of the stormwater outfalls, receiving waters, and any structural controls. Identify all activities that occur at the facility and the potential pollutants associated with each activity including the location of any floor drains. These may be included as part of the inventory required by Part 2.3.7.1.

iii. Identification of stormwater controls. The permittee shall select, design, install, and implement the control measures detailed in paragraph iv below to prevent or reduce the discharge of pollutants from the permittee owned facility.

The selection, design, installation, and implementation of the control measures shall be in accordance with good engineering practices and manufacturer's specifications. The permittee shall also take all reasonable steps to control or address the quality of discharges from the site that may not originate at the facility.

If the discharge from the facility is to an impaired water and the facility has the potential to discharge the pollutant identified as causing the impairment, the permittee shall identify the control measures that will be used to address this pollutant at the facility so that the discharge does not cause or contribute to a violation of a water quality standard.

iv. The SWPPP shall include the following management practices:

Minimize or Prevent Exposure: The permittee shall to the extent practicable either locate materials and activities inside, or protect them with storm-resistant coverings in order to prevent exposure to rain, snow, snowmelt and runoff (although significant enlargement of impervious surface area is not recommended). Materials do not need to be enclosed or covered if stormwater runoff from affected areas will not be discharged directly or indirectly to surface waters or to the MS4 or if discharges are authorized under another NPDES permit.

Good Housekeeping: The permittee shall keep clean all exposed areas that are potential sources of pollutants, using such measures as sweeping at regular intervals. Ensure that trash containers are closed when not in use, keep storage areas well swept and free from leaking or damaged containers; and store leaking vehicles needing repair indoors.

Preventative Maintenance: The permittee shall regularly inspect, test, maintain, and repair all equipment and systems to avoid situations that may result in leaks, spills, and other releases of pollutants in stormwater to receiving waters. Inspections shall occur at a minimum once per quarter.

Spill Prevention and Response: The permittee shall minimize the potential for leaks, spills, and other releases that may be exposed to stormwater and develop plans for effective response to such spills if or when they occur. At a minimum, the permittee shall have procedures that include:

- Preventive measures such as barriers between material storage and traffic areas, secondary containment provisions, and procedures for material storage and handling.
- Response procedures that include notification of appropriate facility personnel, emergency agencies, and regulatory agencies, and procedures for stopping, containing, and cleaning up leaks, spills and other releases. Measures for cleaning up hazardous material spills or leaks shall be consistent with applicable Resource Conservation and Recovery Act (RCRA) regulations at 40 CFR Part 264 and 40 CFR Part 265. Employees who may cause, detect, or respond to a spill or leak shall be trained in these procedures and have necessary spill response equipment available. If possible, one of these individuals shall be a member of the Pollution Prevention Team; and
- Contact information for individuals and agencies that shall be notified in the event of a leak, spill, or other release. Where a leak, spill, or other release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under 40 CFR Part 110, 40 CFR Part 117, or 40 CFR Part 302, occurs during a 24-hour period, the permittee shall notify the National Response Center (NRC) at (800) 424-8802 in accordance with the requirements of 40 CFR Part 110, 40 CFR Part 117, and 40 CFR Part 302 as soon as the permittee has knowledge of the discharge. State or local requirements may necessitate reporting spills or discharges to local emergency, public health or drinking water supply agencies, and owners of public drinking water supplies. Contact information shall be in locations that are readily accessible and available.

Erosion and Sediment Control: The permittee shall use structural and nonstructural control measures at the facility to stabilize and contain runoff from exposed areas and to minimize or eliminate onsite erosion and sedimentation. Efforts to achieve this may include the use of flow velocity dissipation devices at discharge locations and within outfall channels where necessary to reduce erosion.

Management of Runoff: The permittee shall manage stormwater runoff from the facility to prevent or reduce the discharge of pollutants. This may include management practices which divert runoff from areas that are potential sources of pollutants, contain runoff in such areas, or reuse, infiltrate or treat stormwater to reduce the discharge of pollutants.

Salt Storage Piles or Piles Containing Salt: For storage piles of salt or piles containing salt used for deicing or other purposes (including maintenance of paved surfaces) for which the discharge during precipitation events discharges to the permittee's MS4, any other MS4 or to a Water of the United States, the permittee shall prevent exposure of the storage pile to precipitation by enclosing or covering the storage piles. Such piles shall be enclosed or covered within two (2) years of the permit effective date. The permittee shall implement appropriate measures (e.g., good housekeeping, diversions, containment) to minimize exposure resulting from adding to or removing materials from the pile. The permittee is encouraged to store piles in such a manner as not to impact surface water resources, ground water resources, recharge areas, and wells.

Employee Training: The permittee shall regularly train employees who work in areas where materials or activities are exposed to stormwater, or who are responsible for implementing activities identified in the SWPPP (e.g., inspectors, maintenance personnel), including all members of the Pollution Prevention Team. Training shall cover both the specific components and scope of the SWPPP and the control measures required under this Part, including spill response, good housekeeping, material management practices, any best management practice operation and maintenance, etc. EPA recommends annual training.

The permittee shall document the following information for each training:

- The training date, title and training duration;
- List of municipal attendees
- Subjects covered during training

Maintenance of Control Measures: The permittee shall maintain all control measures, required by this permit in effective operating condition. The permittee shall keep documentation onsite that describes procedures and a regular schedule for preventative maintenance of all control measures and discussions of back-up practices in place should a runoff event occur while a control measure is off-line. Nonstructural control measures shall also be diligently maintained (e.g., spill response supplies available, personnel trained).

v. The permittee shall conduct the following inspections:

Site Inspections: Inspect all areas that are exposed to stormwater and all stormwater control measures. Inspections shall be conducted at least once each calendar quarter. More frequent inspections may be required if significant activities are exposed to stormwater. Inspections shall be performed when the facility is in operation. At least one of the quarterly inspections shall occur during a period when a stormwater discharge is occurring.

The permittee shall document the following information for each facility inspection:

- The inspection date and time;
- The name of the inspector;
- Weather information and a description of any discharge occurring at the time of the inspection;
- Identification of any previously unidentified discharges from the site;
- Any control measures needing maintenance or repair;
- Any failed control measures that need replacement.
- Any SWPPP changes required as a result of the inspection.

vi. If during the inspections, or any other time, the permittee identifies control measures that need repair or are not operating effectively, the permittee shall repair or replace them before the next anticipated storm event if possible, or as soon as practicable following that storm event. In the interim, the permittee shall have back-up measures in place.

c. The permittee shall report the findings from the Site Inspections in the annual report.

d. The permittee must keep a written record (hardcopy or electronic) of all required activities including but not limited to maintenance, inspections, and training required by Part 2.3.7.2. The permittee shall maintain all records associated with the development and implementation of the SWPPP required by this section consistent with the requirements of Part 4.2.1.

3.0 Additional State Requirements

3.1 Requirements for MS4s in New Hampshire

The permittee shall evaluate physical conditions, site design, and best management practices to promote ground water recharge and infiltration where feasible in the implementation of the control measures described in Part 2.3. The permittee shall address recharge and infiltration for the control measures, as well as any reasons for electing not to implement recharge and infiltration. Loss of annual recharge to ground water should be minimized through the use of infiltration to the maximum extent practicable. Any subsurface disposal of stormwater shall be in accordance with applicable groundwater, source water protection and underground injection control requirements (see Part 1.3.j).

3.1.1. Infiltration through stormwater practices shall be prohibited under certain circumstances, including:

a. When stormwater originates from gasoline dispensing areas at locations with state registered underground storage tanks (UST) and above ground storage tanks (AST);
b. Within groundwater protection areas (defined under N.H. Code Admin. R. Part Env-Wq 1502.24) when stormwater originates from land uses considered a "high load area" under N.H. Code Admin. R. Part Env-Wq 1502.26; and
c. Within areas that have contaminants in groundwater above the ambient groundwater quality standards established in N.H. Code Admin. R. Part Env-Or 603.03 or in soil above site-specific soil standards developed pursuant to Env-Or 600.

3.1.2. MS4s that discharge to coastal waters with public swimming beaches shall consider these waters a priority in implementation of the stormwater management program.

3.1.3. When updating stormwater ordinances as required in Part 2.3.6, permittees must consider adding the provisions identified in N.H. Code Admin. R. Part Env-Wq 1507.04 for groundwater recharge, N.H. Code Admin. R. Part Env-Wq 1507.05 for channel protection, and N.H. Code Admin. R. Part Env-Wq 1507.06 for peak runoff control. The last two will help communities to address concerns about streambank erosion and flooding which may cause both water quality violations and significant property damage or loss of life.

3.2 New Hampshire Public Drinking Water Requirements

3.2.1 MS4s that discharge to public drinking water sources and their source protection areas must consider these sources priority resources when implementing the control measures of Part 2.3.

3.2.2 Discharge to public drinking water supply sources and their protection areas must provide pretreatment and spill control suitable to protect drinking water sources to the extent feasible.

3.2.3 – The permittee shall avoid direct discharges to groundwater and surface water drinking water sources and ensure any discharges near source protection areas of water supply wells or intakes comply with the applicable state requirements. Stormwater systems shall meet the minimum discharge setback requirements of N.H. Code Admin. R. Part Env-Wq 1500 unless exempt under N.H. Code Admin. R. Part Env-Wq 1508.02(c). The following minimum setbacks apply to certain drinking water supply resources, including:

a. Discharge setbacks from water supply wells in accordance with N.H. Code Admin. R. Part Env-Wq 1508.02(a); and
b. Discharge setback of 100 feet within water supply intake protections areas as specified under N.H. Code Admin. R. Part Env-Wq 1508(b).

In groundwater protection areas and water supply intake protection areas, infiltration and filtration practices shall provide additional vertical separation to the seasonal high water table in accordance with N.H. Code Admin. R. Part Env-Wq 1500 within local regulations for projects not subject to N.H. Code Admin. R. Part Env-Wq 1500.

The permittee is encouraged to adopt similar requirements or reference these state rule requirements under N.H. Code Admin. R. Part Env-Wq 1500 within local regulations for projects not subject to N.H. Code Admin. R. Part Env-Wq 1500.

3.2.4 – The permittee shall develop and implement a plan to notify public water suppliers in the event of an emergency which has the potential to impact a water supply.

4.0 Program Evaluation, Record Keeping, and Reporting

4.1 Program Evaluation

4.1.1 The permittee shall annually self-evaluate its compliance with the terms and conditions of this permit. The permittee shall maintain the annual evaluation documentation as part of the SWMP.

4.1.2 The permittee shall evaluate the appropriateness of the selected BMPs in achieving the objectives and requirements of each control measure and the defined measurable goals. The permittee may change BMPs in accordance with the following provisions:

a. Changes adding (but not subtracting or replacing) components or controls may be made at any time.
b. Changes replacing an ineffective or infeasible BMP specifically identified in the SWMP with an alternative BMP may be made if the proposed changes meet the criteria below:

4.1.3 BMP modification documentation shall include the following information and all documentation shall be kept in the SWMP:

a. An analysis of why the BMP is ineffective or infeasible;
b. Expectations on the effectiveness of the replacement BMP; and
c. An analysis of why the replacement BMP is expected to achieve the defined goals of the BMP to be replaced.

The permittee shall indicate BMP modifications along with a brief explanation of the modification in each Annual Report.

4.1.4 EPA or the state agency may require the permittee to add, modify, repair, replace or change BMPs or other measures described in the annual reports as needed:

a. To address impacts to receiving water quality caused or contributed to by discharges from the MS4; or
b. To satisfy conditions of this permit.

Any changes requested by EPA or the state agency will be in writing and will set forth the schedule for the permittee to develop the changes and will offer the permittee the opportunity to propose alternative program changes to meet the objective of the requested modification.

4.2 Record Keeping

4.2.1 The permittee shall keep all records required by this permit for a period of at least five years. Records include information used in the development of any written program required by this permit, any monitoring results, copies of reports, records of screening, follow-up and elimination of illicit discharges; maintenance records; inspection records; and data used in the development of the notice of intent, SWMP, SWPPP, and annual reports. This list provides examples of records that should be maintained, but is not all inclusive.

4.2.2 Records other than those required to be included in the annual report, Part 4.4, shall be submitted only when requested by the EPA or the state agency.

4.2.3 The permittee shall make the records relating to this permit, including the written (hardcopy or electronic) stormwater management program, available to the public. The public may view the records during normal business hours. The permittee may charge a reasonable fee for copying requests. The permittee is encouraged to satisfy this requirement by posting records online.

4.3 Outfall monitoring

4.3.1. The permittee shall monitor and sample its outfalls at a minimum through sampling and testing at the frequency and locations required in connection with IDDE screening under Part 2.3.4.8.d. through g. and 2.3.4.9.

i. IDDE screening shall include collection of grab samples and analysis of said samples for E. coli (for freshwater receiving waters) or enterococcus (for saline or brackish receiving waters). Bacteria analysis shall be conducted using the analytical methods found in 40 CFR §136, or alternative methods approved by EPA in accordance with the procedures in 40 CFR §136. Other IDDE screening parameters shall be considered field screening and are not subject to 40 CFR §136 requirements.

ii. If the discharge is directly into an impaired water, or if the discharge is subject to a waste load allocation in an approved TMDL as indicated in Appendix F, grab samples shall be collected concurrently with the IDDE investigation required by Part 2.3.4.8.e.(b) and analyzed for the pollutants identified as the cause of the impairment. The required pollutant analyses in connection with causes of impairment are provided in Appendix G.

iii. The monitoring program may also include additional outfall and interconnection monitoring as determined by the permittee in connection with assessment of SWMP effectiveness pursuant to Part 4.1; evaluation of discharges to impaired waters pursuant to Part 2.2; assessment of BMP effectiveness pursuant to Part 2.2 or 2.3; or otherwise.

4.3.2. The permittee shall document all monitoring results each year in the annual report. The report shall include the date, outfall or interconnection identifier, location, weather conditions at time of sampling, precipitation in previous 48 hours, field screening parameter results, and results of all analyses. The annual report shall include all of this information and data for the current reporting period and may include all data for the entire permit period.

4.3.3. The permittee shall also include in the annual report results from any other stormwater or receiving water quality monitoring or studies conducted during the reporting period. If such monitoring or studies were conducted on behalf of the permittee, or if monitoring or studies conducted by other entities were reported to the permittee, a brief description of the type of information gathered or received shall be included in the annual report(s) covering the time period(s) the information was received.

4.4 Annual Reporting

4.4.1 The permittee shall submit an annual report. The reporting period will be a one year period commencing on July 1, 2018, and subsequent anniversaries thereof, except that the first annual report under this permit shall also cover the period from May 1, 2018 to July 1, 2018. The annual report is due ninety days from the close of each reporting period.

4.4.2 The annual reports shall contain the following information:

4.4.2.1 A self-assessment review of compliance with the permit terms and conditions.

4.4.2.2 An assessment of the appropriateness of the selected BMPs.

4.4.2.3 The status of the any plans or activities required by Part 2.1 and/ or Part 2.2, including:

a. For discharges subject to TMDLs, a description of BMPs implemented to comply with the applicable Part(s) of Appendix F;
b. For discharges to certain impaired waters (and their tributaries for nutrient-impaired waters), a description of BMPs implemented to comply with the applicable Part(s) of Appendix F

4.4.2.4 An assessment of the progress towards achieving the measurable goals and objectives of each control measure in Part 2.3 including:

a. Evaluation of the public education program including a description of the targeted messages for each audience; method of distribution and dates of distribution; methods used to evaluate the program; and any changes to the program.
b. Description of the activities used to promote public participation including documentation of compliance with state public notice regulations.
c. Description of the activities related to implementation of the IDDE program including: status of the map; status and results of the illicit discharge potential ranking and assessment; identification of problem catchments; status of all protocols described in Parts 2.3.4. (program responsibilities and systematic procedure); number and identifier of catchments evaluated; number and identifier of outfalls screened; number of illicit discharges located; number of illicit discharges removed; gallons of flow removed; identification of tracking indicators and measures of progress based on those indicators; and employee training.
d. Evaluation of the construction runoff management including number of project plans reviewed; number of inspections; and number of enforcement actions.
e. Evaluation of stormwater management for new development and redevelopment including status of ordinance development and review and status of the street design assessment.
f. Status of the O&M Programs required by Part 2.3.7.1.
g. Status of SWPPP required by Part 2.3.7.2 including inspection results.

h. Any additional reporting requirements in Part 3.0.

4.4.2.5 All outfall screening and monitoring data collected by or on behalf of the permittee during the reporting period, including but not limited to all data collected pursuant to Parts 2.3.4 and 4.3. The permittee shall also provide a description of any additional monitoring data received by the permittee during the reporting period.

4.4.2.6 Description of activities for the next reporting cycle.

4.4.2.7 Description of any changes in identified BMPs or measurable goals.

4.4.2.8 Description of activities undertaken by any entity contracted for achieving any measurable goal or implementing any control measure.

4.4.3 Reports must be submitted to EPA following address:

United State Environmental Protection Agency
Stormwater and Construction Permits Section (OEP06-1)
Five Post Office Square, Suite 100
Boston, MA 02109

NHDES may request that the permittee submit reports to NHDES, upon receipt of this request the reports shall be sent to the following address:

NH Department of Environmental Services
Wastewater Engineering Bureau
Permits and Compliance Section
P.O. Box 95
Concord, NH 03302-0095

5.0 Non-Traditional MS4s

Non-traditional MS4s are MS4s owned and operated by the State of New Hampshire, counties or other public agencies within the State of New Hampshire, and properties owned and operated by the United States (Federal Facilities) within the States of New Hampshire. This Part addresses all non-traditional MS4s except MS4s that are owned or operated by transportation agencies, which are addressed in Part 6.0 below.

5.1. Requirements for Non-Traditional MS4s

All requirements and conditions of Parts 1 – 4 above apply to all Non-traditional MS4s, except as specifically provided below:

5.1.1 Public education: For the purpose of this permit, the audiences for a Non-traditional MS4 include the employees, clients and customers (including students at education MS4s) or visitors to the property, and any contractors working at the facility where the MS4 is located. The permittee may use some of the educational topics included in Part 2.3.2.1.c. as appropriate, or may focus on topics specific to the MS4. The permittee shall document the educational topics for each target audience in the SWMP and annual reports.

5.1.2 Ordinances and regulatory mechanisms: Some MS4s may not have authority to enact an ordinance, by-law, or other regulatory mechanisms. MS4s without the authority to enact an ordinance shall ensure that written policies or procedures are in place to address the requirements of Part 2.3.4.6.a., Part 2.3.5.3.a., Part 2.3.6.a., and Part 2.3.6.b. They may rely on EPA, the State environmental agency or State Attorney General Office for enforcement assistance.

5.1.3 Assessment of Regulations: Non-traditional MS4s do not need to meet the requirements of Part 2.3.6.c and Part 2.3.6.d. Non-traditional MS4s shall instead evaluate opportunities to include green infrastructure practices in new development and redevelopment at their facilities. Non-traditional MS4s shall evaluate opportunities to reduce the amount of impervious cover due to parking areas and walkways. Non-traditional MS4s shall report on these efforts in each annual report. The permittee shall also ensure adequate long-term operation and maintenance of stormwater management practices installed by the non-traditional MS4 or its agents.

5.1.4 New Dischargers
New MS4 facilities are subject to additional water quality-based requirements if they fall within the definition of "new dischargers" under 40 CFR § 122.2: "A new discharger is any building, structure, facility or installation (a) from which there is or may be a 'discharge of pollutants' (b) that did not commence the 'discharge of pollutants' at a particular 'site' prior to August 13, 1979; (c) which is not a 'new source'; and (d) which never received a finally effective NPDES permit for discharges at that 'site.' The term "site" is defined in §122.2 to mean "the land or water area where any 'facility or activity' is physically located or conducted including adjacent land used in connection with the facility or activity."

Consistent with these definitions, a Non-traditional MS4 is a "new discharger" if it discharges stormwater from a new facility with an entirely new separate storm sewer system that is not physically located on the same or adjacent land as an existing facility and associated system operated by the same MS4.

Any Non-traditional MS4 facility that is a "new discharger" and discharges to waterbody listed in category 5 or 4b on the most recent EPA approved New Hampshire Integrated Report of waters listed pursuant to Clean Water Act, section 303(d) and 305(b) due to nutrients (Total Nitrogen or Total Phosphorus), metals (Cadmium, Copper, Iron, Lead, or Zinc), solids (TSS or Turbidity), bacteria/pathogens (E. Coli, Enteroccus or Fecal Coliform), chloride (Chloride) or oil and grease (Oil Slicks or Benzo(a) pyrene (PAHs), or discharges to a waterbody with an approved TMDL for any of those pollutants, is not eligible for coverage under this permit and shall apply for an individual permit.

Any Non-traditional MS4 facility that is a "new discharger" and discharges to a waterbody that is in attainment is subject to New Hampshire antidegradation regulations at N.H. Code Admin. R. Part Env-Wq 1708. The permittee shall comply with the provisions of N.H. Code Admin. R. Part Env-Wq 1708.04 and N.H. Code Admin. R. Part Env-Wq 1708.06 including information submittal requirements and obtaining authorization for new discharges as appropriate[20]. Any authorization of new discharges by NHDES shall be incorporated into the permittee's SWMP. If an applicable NHDES approval specifies additional conditions or requirements, then those requirements are incorporated into this permit by reference. The permittee must comply with all such requirements.

[20] Contact NHDES for guidance on compliance.

6.0 Requirements for Transportation Agencies

A transportation agency is the state agency responsible for operation and maintenance of the state owned roadways (New Hampshire Department of Transportation -NHDOT). All requirements and conditions of this permit apply with the following exceptions:

6.1 Public education: For the purpose of this permit, the audiences for a transportation agency education program include the general public (users of the roadways), employees, and any contractors working at the location. The permittee may use some of the educational topics included in Part 2.3.2.1.c. as appropriate, or may focus on topics specific to the agency. The permittee shall document the educational topics for each target audience in the SWMP and annual reports.

6.2 Ordinances and regulatory mechanisms: The transportation agency may not have authority to enact an ordinance, by-law or other regulatory mechanisms. The agency shall ensure that written agency policies or procedures are in place to address the requirements of Part 2.3.4.6.a., Part 2.3.5.3.a., Part 2.3.6.a., and Part 2.3.6.b. These agencies may rely on EPA or the State environmental agency for enforcement assistance.

6.3 Assessment of regulations: The requirements of Part 2.3.6.c. and Part 2.3.6.d. do not apply. The agency shall instead evaluate opportunities to include green infrastructure practices in new development and redevelopment at the facility. The agency shall evaluate opportunities to reduce the amount of impervious cover due to parking areas and walkways. The permittee shall report on these efforts in each annual report. The permittee shall also ensure adequate long-term operation and maintenance of stormwater management practices installed by the agency or its agents.

6.4 New Dischargers

New MS4 facilities are subject to additional water quality-based requirements if they fall within the definition of "new dischargers" under 40 CFR § 122.2: "A new discharger is any building, structure, facility or installation (a) from which there is or may be a 'discharge of pollutants' (b) that did not commence the 'discharge of pollutants' at a particular 'site' prior to August 13, 1979; (c) which is not a 'new source'; and (d) which never received a finally effective NPDES permit for discharges at that 'site.' The term "site" is defined in §122.2 to mean "the land or water area where any 'facility or activity' is physically located or conducted including adjacent land used in connection with the facility or activity."

Consistent with these definitions, a new transportation MS4 is a "new discharger" if it discharges stormwater from a new facility with an entirely new separate storm sewer system that is not physically located on the same or adjacent land as an existing facility and associated system operated by the same MS4.

Any transportation MS4 facility that is a "new discharger" and discharges to a waterbody listed as impaired in category 5 or 4b on the most recent EPA approved New Hampshire Integrated Report of waters listed pursuant to Clean Water Act section 303(d) or 305(b) due to nutrients (Total Nitrogen or Total Phosphorus), metals (Cadmium, Copper, Iron, Lead or Zinc), solids

(TSS or Turbidity), bacteria/pathogens (E. Coli, Enteroccus or Fecal Coliform), chloride (Chloride) or oil and grease (Oil Slicks or Benzo(a) pyrene (PAHs)) or discharges to a waterbody with an approved TMDL for any of those pollutants, is not eligible for coverage under this permit and shall apply for an individual permit.

Any transportation MS4 facility that is a "new discharger" and discharges to a waterbody that is in attainment is subject to New Hampshire antidegradation regulations at N.H. Code Admin. R. Part Env-Wq 1708. The permittee shall comply with the provisions of N.H. Code Admin. R. Part Env-Wq 1708.04 and N.H. Code Admin. R. Part Env-Wq 1708.06 including information submittal requirements and obtaining authorization for new discharges as appropriate[21]. Any authorization of new discharges by NHDES shall be incorporated into the permittee's SWMP. If an applicable NHDES approval specifies additional conditions or requirements, then those requirements are incorporated into this permit by reference. The permittee must comply with all such requirements.

[21] Contact NHDES for guidance on compliance.

EXHIBIT

B

ENVIRONMENTAL PROTECTION AGENCY 6560-50-P

[FRL-]

AVAILABILITY OF FINAL NPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS IN NEW HAMPSHIRE

AGENCY: ENVIRONMENTAL PROTECTION AGENCY (EPA)

ACTION: NOTICE OF AVAILABILITY OF FINAL NPDES GENERAL PERMIT

SUMMARY: The Director of the Office of Ecosystem Protection, EPA – Region 1, is providing a notice of availability of the final National Pollutant Discharge Elimination System (NPDES) general permit for stormwater discharges from Small Municipal Separate Storm Sewer Systems (MS4s) to certain waters of the State of New Hampshire. The final New Hampshire Small MS4 general permit establishes Notice of Intent (NOI) requirements, prohibitions, and management practices for stormwater discharges from small MS4s in New Hampshire. The final New Hampshire small MS4 general permit reflects modifications to the draft small MS4 general permit released for comment on February 12, 2013 and to renoticed sections of the draft Small MS4 general permit released for comment on September 1, 2015. The final New Hampshire small MS4 general permit replaces the 2003 small MS4 general permit for MS4 operators within the State of New Hampshire.

DATES: The New Hampshire small MS4 general permit shall be effective on July 1, 2018 and will expire at midnight on June 30, 2023. In accordance with 40 CFR part 23, this permit shall be considered issued for the purpose of judicial review at 1:00 pm eastern daylight time on February 1, 2017. Under section 509(b) of the Clean Water Act, judicial review of this general permit can be requested by filing a petition for review in the United States Court of Appeals within 120 days after the permit is considered issued. Under section 509(b)(2) of the Clean Water Act, the requirements in this permit may not be challenged later in civil or criminal proceedings to enforce these requirements. In addition, this permit may not be challenged in other agency proceedings.

FOR FURTHER INFORMATION CONTACT: Suzanne Warner, Stormwater and Construction Permits Section OEP 06-4, Environmental Protection Agency, 5 Post Office Square - Suite 100, Boston, Massachusetts 02109-3912; 617-918-1383; warner.suzanne@epa.gov.

SUPPLEMENTARY INFORMATION:

General Information:

EPA is reissuing three final NPDES permits for discharges of stormwater from small MS4s to certain waters within the State of New Hampshire. The three general permits are:

NHR041000 – Traditional cities and towns

NHR042000 – Non-traditional state, federal, county, and other publicly owned MS4s

NHR043000 – Non-traditional transportation MS4s

While these are technically distinct permits, for convenience they have been grouped into a single document and this document refers to the "permit" in the singular. The final general permit, appendices and attachments, as well as response to comments on the draft permit are available at http://www.epa.gov/region1/npdes/stormwater/MS4_NH.html.

The conditions in the general permit are established pursuant to Clean Water Act (CWA) section 402(p)(3)(iii) to ensure that pollutant discharges from small MS4s are reduced to the Maximum Extent Practicable (MEP), protect water quality, and satisfy the appropriate requirements of the CWA. Further information on the requirements of the permit related to MEP and water quality may be found in EPA's Response to Comments document on the above website.

EPA issued a final general permit to address stormwater discharges from small MS4s in Massachusetts and New Hampshire on May 1, 2003. The 2003 general permit required small MS4 operators to develop and implement a Stormwater Management Program (SWMP) designed to control pollutants to the maximum extent practicable and protect water quality. The final general permit for New Hampshire MS4s builds on the requirements of the 2003 general permit. EPA drafted a small MS4 general permit for New Hampshire and took public comments on the draft from February 12, 2013 to August 15, 2013. Based on comments received on the draft and newly available information, EPA modified specific parts of the draft general permit and renoticed those parts for public comment. EPA took comments on those modified permit parts from September 1, 2015 to November 2, 2015. EPA received over 50 unique written letters and oral comments on the 2013 draft permit and 2015 renoticed permit parts. Concurrent with the release of the final permit and supplemental materials EPA will make available a Response to Comments received on the 2013 draft permit and 2015 renoticed permit parts. The Response to Comments will be available on the EPA website listed above. Changes to the permit resulting from public comments include, but are not limited to: reduction of certain reporting requirements and metrics, adding more specific requirements to certain minimum control measures, reorganization of certain requirements for clarity, and extension of deadlines for certain required tasks and reports within the permit.

Obtaining Authorization:

In order for a small MS4 operator to obtain authorization to discharge, it must submit a complete and accurate NOI containing the information in Appendix E of the general permit. If the operator so chooses, it must include any alternative pollutant reduction plans approved by New Hampshire Department of Environmental Services (NHDES) in the NOI submission. The NOI must be submitted on or before October 1, 2018. A small MS4 operator must meet the eligibility requirements of the general permit found in Part 1.2 and Part 1.9 prior to submission of its NOI. A small MS4 operator will be authorized to discharge under the permit upon receipt of written notice from EPA following a public notice of the submitted NOI, if necessary. EPA will authorize the discharge, request additional information, or require the small MS4 to apply for an alternative permit or an individual permit. NOIs may be submitted electronically to EPA at stormwater.reports@epa.gov or sent via regular or overnight mail to: United States Environmental Protection Agency, Stormwater and Construction Permits Section OEP 06-1, 5 Post Office Square - Suite 100, Boston, Massachusetts 02109-3912. If requested to do so by NHDES, the small MS4s must also submit a copy of the NOI to: New Hampshire Department of Environmental Services, Water Division – Wastewater Engineering Bureau, P.O. Box 95, Concord, New Hampshire 03302-0095, ATTN: Stormwater Permits Coordinator.

Other Legal Requirements:

In accordance with the Endangered Species Act (ESA), EPA has updated the provisions and necessary actions and documentation related to potential impacts to endangered species from discharges and related actions under the New Hampshire Small MS4 general permit. EPA has obtained concurrence from the appropriate federal services (U.S. Fish and Wildlife Service and National Marine Fisheries Service) regarding the requirements of this general permit.

In accordance with the National Historic Preservation Act, EPA has established provisions and documentation requirements for operators seeking coverage under the New

Hampshire small MS4 general permit to ensure that discharges or actions taken under this permit will not adversely affect historic properties and places.

AUTHORITY: This action is being taken under the Clean Water Act, 33 U.S.C. 1251 *et seq.*

January 18, 2017.
Dated

/ Signature on File /

H. Curtis Spalding
Regional Administrator, Region 1